

Memorandum of Understanding Counter Proposal  
Full-Time Distance Learning

San Mateo Elementary Teachers Association (SMETA)  
and  
San Mateo-Foster City School District (SMFCSD)

July 21, 2020

The San Mateo Elementary Teachers Union (“SMETA”) and the San Mateo Foster City School District (“District”) enter this Memorandum of Understanding (“MOU”) regarding the District’s ongoing response to the coronavirus (COVID-19) pandemic.

SMETA and the District recognize the importance of maintaining safe facilities and operations, for the benefit of the students and communities served by the District and its teachers and staff. We recognize the importance of prudent measures to prevent District employees, students, their families, or other people using District facilities from being exposed to or infected with coronavirus. Care should be taken to identify potential exposure and prevent the spread of the disease. We agree that continuity of District operations should be maintained, and provisions should be made for District employees who are impacted by the epidemic.

The Parties recognize that the emergency school closure that was due to the Governor’s Executive Orders N-26-20 and N-33-20 have been revised to allow the gradual reopening of the state, including schools.

In preparation for the 2020-21 school year, the parties recognize the need to address the district’s learning environment and instructional model given the continuing pandemic. It is in the mutual interest of the parties to abide by the recommendations of public health officials to prevent illness and further spread the virus. The parties recognize that schools are critical to daily life and that collaboration between local public health, education officials, and educators is the best means to determine and balance competing concerns surrounding school reopening decisions. In accordance with guidance from the Centers for Disease Control and Prevention (“CDC”), California Department of Public Health (“CDPH”), California Department of Education (“CDE”), the California Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA as of July 17, 2020), and the San Mateo County Department of Health.

The Parties recognize and agree that reopening with under a full time distance learning option approach for some students and staff is necessary as a result of an order or guidance from the California Public Health Officer or San Mateo Public Health Officer, for students who are medical fragile or would be put at risk by in-person instruction, who are

self-quarantining because of exposure to COVID-19, or students whose parents choose this full time distance learning during the COVID-19 pandemic.

Therefore, during the 2020-21 school year, the District will offer a Full Time Distance Learning option as a separate program within the District, in addition to in-person instruction, within the guidance of the California Department of Public Health (June 5, 2020), California Department of Education (June 8, 2020), the San Mateo County Coalition for Safe Schools and Communities/San Mateo County Office of Education (June 10, 2020), and the Safer Community Order of the San Mateo County Health Officer, effective June 18, 2020. In the event of any new guidance or orders issued by these entities during the term of this Agreement, the Parties shall meet to negotiate their impact.

The District and Association agree to address the effects of the Full Time Distance Learning Program on unit member employees as follows:

A. Health and Safety

The District shall adhere to the COVID-19 guidelines issued by the Centers for Disease Control and Prevention (“CDC”), California Department of Public Health (“CDPH”), California Department of Education (“CDE”), the California Department of Industrial Relations Division of Occupational Safety and Health (“Cal/OSHA”), and the San Mateo County Department of Health issued as of June 29, 2020. In the event that these entities issue any new guidance or orders during the term of this Agreement that impact the terms of this Agreement, the Parties shall meet to negotiate their impact.

B. Communication

The District will inform SMETA bargaining unit employees as soon as practicable should it learn of a confirmed or likely coronavirus infection of District employees or students, and will follow the guidance of the San Mateo County Coalition for Safe Schools and Communities /San Mateo County Health Officer guidance for cases and contact tracing in the school community (*pp 34-35*). The District shall not be required to disclose any information which is considered private, such as personal, medical or confidential student information.

C. Distance Learning Leaves

1. Unit members continue to have all leave rights as provided in Article 10 of the Collective Bargaining Agreement (“CBA”).
2. Unit members who have exhausted accumulated sick leave and require additional leave for COVID-19 illness and quarantine, may access extended sick leave and catastrophic leave as provided in Article 10 of the Collective Bargaining Agreement (“CBA”).

3. Unit members who are placed on quarantine by a physician or county medical agency, due to suspected illness or exposure to COVID-19, and cannot work, may access leave as provided in Article 10 of the CBA and available Federal Families First Coronavirus Response Act (FFCRA). The first ten days of such leave shall be covered by FFCRA Emergency Paid Sick Leave. If this leave does not cover the unit members' full salary, the unit member may opt to use accumulated sick leave to top up to his/her full salary. Thereafter, if the unit member cannot return to work, he/she may access accumulated sick leave and any other paid leave as provided in Article 10 of the CBA. The Parties acknowledge that the FFCRA will expire on December 31, 2020. In the event FFCRA is not renewed for 2021, the Parties shall reconvene to discuss Leave provisions.
4. The District will be flexible regarding any request it may make for medical verification of absences greater than five days, pursuant to Article 10, Section 10.1.4 of the CBA, where the absences are due to the unit members own COVID-19 illness, exposure to or caring for an immediate family member with COVID-19.
5. Unit members continue to have the rights provided under Labor Code section 230.8 in order to address child care and/or school emergencies caused by coronavirus-related concerns.
6. Between July 21 and December 31, 2020, unit members shall be eligible for leaves pursuant to the Federal Families First Coronavirus Response Act (FFCRA).

D. Salary

1. Unit members will receive their rate of pay and benefits relative to their regular schedules for teaching in the Full Time Distance Learning Program.
2. In the event that any District facilities and all District operations are again curtailed due to the coronavirus pandemic, unit members will not suffer any loss of pay or benefits relative to their regular schedules for the period of closure.

E. Assignment to Full-time Distance/ Remote Learning Program

1. Definition

For the purpose of this MOU, a "FTDL" Teacher is a teacher who is delivering instruction to his/her students when they are in different locations and which is provided through online interaction/instruction via computer or communications technology.

The FTDL Model of instruction shall be utilized as the primary form of student instruction to begin the 2020-21 school year until at least October Break. When the District is able to return to in-person instruction, in accordance with the CDPH

COVID-19 and Reopening In Person Learning Framework for K-12 Schools and COVID-19 Industry Guidance: Schools and Schools-Based Programs (July 17, 2020), the Parties will meet to negotiate the impacts of the transition in order to safely bring students and staff on campus.

The District will provide unit members assigned to teach in the Full Time Distance Learning Program (“FTDL”) during the 2020-21 school year with the necessary curriculum, technology and training to deliver instruction that is substantially equivalent to in-person instruction.

## 2. Accommodations for Unit Member Underlying Health Conditions

- a. Priority for assignment to FTDL will be given to unit members who are requesting an FTDL assignment because they have an underlying health condition that makes them at high risk for COVID-19 infection.
- b. Such unit members shall make their request to Human Resources in writing via email. The Human Resources Department will provide the employee with forms to be filled out by their physician verifying an underlying health condition that makes them at high risk for COVID-19 and prevents them from teaching in an in-person environment. The Human Resources Department will engage in an interactive process with the unit member to determine appropriate accommodations.

## 3. Voluntary Transfer

- a. The District will send notification to all unit members of teacher vacancies in the FTDL Program and the process/timeline for requesting a transfer to the program. Initial postings of FTDL vacancies and required credential of each position shall be posted for a minimum of 5 business days. Any subsequent vacancies shall be posted on the District website. For purposes of this MOU, the timelines in Article 7.6 are waived.
- b. Unit members may request a voluntary transfer to the FTDL Program any time after the effective date of this Agreement. The request must be in writing on the voluntary transfer form and submitted via email to the Human Resources Department. Unit members who have requested a voluntary transfer will be notified of the vacant positions.
- c. The following priorities shall apply to the assignment of FTDL remote work:
  - i. Unit members who request an FTDL assignment because they have an underlying health condition that makes them at high risk for COVID-19 infection pursuant to Paragraph 1.b. above.

- ii. Unit members who have an individual living in the unit member's household who has an underlying health condition that makes them at high risk for COVID-19 infection. Unit members must provide notice from their individual's physician verifying an underlying health condition that makes them at high risk for COVID-19.
- iii. The unit member is aged 65 or over
- iv. The unit member is required to provide child care for children under the age of 12 who cannot return to school full time, or any age in the case of a child with exceptional needs who cannot return to school full-time.
- v. If there is additional FTDL work available, the remaining assignments shall be filled in order of seniority.

4. Involuntary Transfer

The involuntary transfer provisions of Article 7.5 of the CBA will be followed should involuntary transfer of unit members be necessary to fill or vacate an FTDL assignment.

F. Work Hours/Conditions

- 1. Unit members assigned to the FTDL program will be provided an on campus/district work space from which to work.
- 2. FTDL unit members may telecommute and work from home. Unit members working from home shall observe the expectations of telecommuting and working from home.
- 3. Work hours for elementary school during distance learning will be 8:00 a.m. to 3:15 p.m. including a one hour lunch generally from 12:00-1:00 p.m. Work hours for middle school will follow assigned bell schedule.
- 4. Distance Learning Teachers shall be assigned class sizes consistent with the CBA.
- 5. Unit members will be expected to attend staff meetings once per week with the Principal assigned to the Full Time Distance Learning Program as provided in Article 6, section 6.3.3 of the CBA.
- 6. The District shall not require in-person staff meetings or professional development.
- 7. Expectations of unit members for distance learning:
  - a. Provide instruction and engagement using the District provided online curriculum and resources

- b. Be available during work hours
  - c. Have District issued computer and/or device
  - d. Have internet access provided personally or hot spots provided by the District
  - e. Have a work space that is safe and free of distraction
8. Unit members not currently assigned as classroom teachers may be assigned to assist FTDL classroom teachers or to substitute for FTDL classroom teachers, as necessary.
9. All Unit members will be provided an on campus/district work space. They may work from their on campus/district work space, during regular school hours as they deem necessary. In the event a bargaining unit member reports to a district worksite, he/she shall be responsible for following state, county, and local public health recommendations. Except when working independently in their on campus/district work space , while on district premises, bargaining unit members shall maintain six feet physical distancing between themselves and other individuals and be required to wear a face covering and/or face covering and face shield where necessary. The District shall provide face coverings and/or face shields for staff if staff do not provide their own. Staff who cannot wear a face covering because of a documented health issue shall be required to wear a face shield and neck drape (tucked into the shirt).
10. Should a full return to school become available during the 2020-2021 school year, the Parties shall meet and negotiate the effects of the transition.

G. Defining Full-Time Distance Learning, Assessments and Student Expectations

1. For the purpose of this MOU, “full-time distance learning” means instruction in which the student and instructor are in different locations and students are under the general supervision of a unit member. Full Time Distance Learning may include:
- a. Interaction, instruction, and check-ins between teachers and students through the use of a computer or communications technology
  - b. Video or audio instruction in which the primary mode of communication between unit member and students, is online interaction, instructional television, video, and tele-courses

- c. Print or digital materials incorporating assignments that are the subject of written or oral feedback.
2. Full-time distance learning will include daily live engagement between the teacher and students for the purposes of instruction/interaction, progress monitoring and maintaining school connectedness. Live instruction/interaction shall be substantially equivalent to District in-person instruction/interaction in the hybrid model which is four hours per day.

For elementary school programs, FTDL shall include the following activities:

- a. Daily morning community meeting for all students
- b. Provide students and families a weekly agenda/overview
- c. New curriculum content
- d. Curriculum review and practice
- e. Timely feedback on student work assignments
- f. Diagnostic assessment
- g. Small group instruction
- h. Whole group instruction
- i. Social Emotional Learning lessons (SEL)
- j. Daily closing activity/reflection

For middle school programs, FTDL shall include the following activities:

- a. Daily homeroom community meeting for all students
  - b. Weekly SEL lessons in homeroom
  - c. Provide students and families a weekly agenda/overview
  - d. New curriculum content
  - e. Curriculum review and practice
  - f. Timely feedback on student work assignments
  - g. Diagnostic assessment
  - h. Small group instruction
  - i. Whole group instruction
  - J. Daily interaction between students and teachers during each period
2. Unit members assigned to the FTDL Program will adhere to the District content aligned grade level standards which provides a substantially equivalent challenge to in-person instruction.

#### H. Preparation Time to Implement Full-Time Distance Learning Fall Reopen

1. Bargaining unit members shall be provided 4 days at the beginning of the school year to receive professional development, and 1 day to prepare lessons and resources to implement transition to FTDL during the 2020-21

school year prepare for fall reopening in accordance with the following schedule:

August 10 will be an optional non-instructional day for school site professional development. Unit members who attend on August 10 will be paid their per diem salary. Additional optional district professional development for curriculum will also be offered during the week of August 3 -7. Unit members who attend during this week will receive \$45 per hour.

August 11-14 will serve as non-instructional days that unit members are required to report to work and will consist of 3 district and/or site based professional development days (August 11-13) and 1 staff work day (August 14) to prepare lessons and resources.

Members will not be required to report to their sites on these 5 days so long as they can participate remotely.

2. The 2020-21 student calendar will be changed to start instruction August 17 and to change September 18, January 5, and March 12 to instructional days.
3. The District will designate specific Wednesdays during the school year for site/district professional development. Unit members will provide online assignments for students on that Wednesday, but will otherwise not be available for live instruction or to families.

J. Equipment, Training and Technical Support

The District shall provide a computer, hot spots if needed, and any other necessary equipment to deliver distance learning. Staff shall not be liable for damage to District equipment when used in a reasonable manner.

In the event that unit member work sites become unavailable, the Parties will meet and negotiate the impact.

The District shall provide unit member's access to District provided technical support via virtual tools. This may include access to technical support personnel, helplines, and other technical support from District vendors and/or staff, as well as instruction on distance learning platforms and instructional materials.

K. Communication, Attendance, Collaboration, Privacy and Security

1. Unit members shall check their District email daily during the regular work week.
2. Staff will continue to meet/collaborate as they deem necessary and appropriate for purposes consistent with Article 6.1.7 of the CBA. Recognizing this unique

situation, the time and manner of collaboration will not be determined by District or site administration with the exception of virtual Tuesday staff meetings.

3. On a weekly basis, unit members shall inform parents and students of their availability to provide support and clarification via email, telephone and/or other virtual platforms.
4. Unit members shall not be required to provide personal cell phone numbers or personal email addresses in communications with parents or students.
5. Students will only be permitted to participate in live video/audio lessons after the District has secured parent/guardian permission for such activity and agreed to the District's acceptable use agreement. Signed permission on the existing acceptable use agreement will be accepted until the District develops, distributes and receives the revised agreement, but no later than September 30, 2020. The revised agreement shall be shared with SMETA by August 1, 2020. The District will take appropriate disciplinary action against any student for violation of, pursuant to Education Code Section 51512 prohibiting video/audio recording without consent.
5. Unit members maintain their rights under CA Ed Code Section 48900 and 48910 to suspend students from their class (virtual) for inappropriate student behavior.
6. SMETA has an interest in working with the District on attendance, testing, and grading policies. The District will develop processes for documenting student daily attendance and daily participation/engagement and will negotiate the effects of those processes with SMETA. The regular grading policies and practices of teachers and District will apply to FTDL grading.
7. Unit members will participate in a virtual Back to School Night and virtual Parent Teacher Conferences for the 2020-2021 School Year as provided in Article 6, Section 6.3 and 6.1.5.

L Curriculum Content and, Progress Monitoring and Scheduling

1. Bargaining unit members shall provide distance learning instruction using determine the means and method for providing distance learning based on the District provided adopted online curriculum with curriculum with appropriate standards-based instruction, their resources, and their students' ability to access the curriculum. Under the current distance learning model, Bargaining unit members shall be responsible for planning appropriate standards-based instruction, responding to parents and students in a timely manner, supporting diverse learners, building rapport and connections with students, regularly monitoring student work completion and participation, providing students feedback, and reporting non-participation to the site administrator for additional outreach and follow up.

2. Unit members shall determine the means and method for providing distance learning based on the District adopted online curriculum and learning management system their resources, and their students' ability to access the curriculum. Unit members shall be responsible for planning appropriate standards-based instruction, responding to parents and students in a timely manner, supporting diverse learners, building rapport and connections with students, regularly monitoring student work completion and participation, and providing students with timely feedback.
4. The District will provide all materials needed for any General Education and Special Education virtual assessments in a timely manner.

M Special Education, Counselors and Psychologists

1. Resource Specialists will provide individual and/or group virtual lessons in accordance with the District wide FTDL Model through October Break. The parties will meet to negotiate the impacts of a transition to in person learning on Resource Specialists when the District is able to return to in-person instruction, in accordance with the CDPH COVID-19 and Reopening In Person Learning Framework for K-12 Schools and COVID-19 Industry Guidance: Schools and Schools-Based Programs (July 17, 2020).
2. The Parties agree to meet at the request of either Party to address implementing guidance from the CDE and/or Federal Department of Education in order to provide equitable and appropriate education for students with special needs. FTDL Special education teachers will work collaboratively with FTDL general education teachers via a virtual platform to adapt lessons to meet the needs of students in a digital learning environment and ensure that lessons and activities are appropriate, as documented in the student's IEP.
3. Students with exceptional needs who participate in the FTDL program with moderate to severe disabilities will be provided continuity of learning through a variety of distance learning resources, as appropriate. This enables all students' access to the same learning opportunities.
4. Related Service Providers (Adapted PE, etc.), will prepare appropriate distance learning activities that can be performed at home.
5. Virtual tools shall be used to hold any necessary IEP meetings and to meet and collaborate on a student's IEP.
6. School Psychologists may provide appointments for students for social emotional and/or behavioral needs as deemed necessary by the psychologists, as well as communicate with families to provide support. Any appointments scheduled may be conducted by telephone or virtual tools.

7. Counselors may provide virtual or telephone appointments to students for academic counseling, monitoring, and guidance. These appointments or conversations may be conducted via email, telephone, or other virtual tools, as appropriate.
8. Speech and Language Pathologist may provide individual and/or group virtual lessons. These lessons may be conducted via email, by telephone, or other virtual tools, as appropriate.

N. Teachers on Special Assignment (TOSA)

TOSA's may provide individual and/or group virtual lessons as well as coaching and support teachers and staff in FTDL.

O. Evaluations

The evaluation timeline shall be extended. The initial conference deadline will be November 15 in order to allow members to gain familiarity with the new curricula and Distance Learning.

During the term of this Agreement, Temporary and Probationary—certificated members shall be evaluated consistent with Article 9 of the CBA.

Permanent members who have received an unsatisfactory on their most recent evaluation, shall also be evaluated consistent with Article 9 of the CBA.

Evaluations for Permanent certificated unit members with satisfactory evaluations on their most recent evaluation shall be suspended for the 2020-21 school year.

The District will provide SMETA information given to Principal's regarding evaluation procedures during FTDL.

P. The District ordinarily does not allow unit members to bring their children to their work sites during work hours. However, the Parties acknowledge these are extraordinary circumstances, and that unit members may require child care for their own children. Unit members may bring their own children to their work site under these circumstances:

- a) Children must be the unit members' dependents
- b) Children must not exhibit any signs of illness
- c) children must be under the direct supervision of the unit member at all times
- d) Children must remain in the unit members' work space while at school and may not be in any other areas of campus, including but not limited to, playgrounds, staff break rooms, kitchens or in other teachers' work spaces or with other teacher's children.
- e) The presence of children cannot create distraction from the unit member's required work, or any other unit members work
- f) children must be following all district health and safety protocols on campus, including temperature taking and wearing a face covering

g) All unit members in a school or work place in which any unit member brings their child must sign a liability.

Q. Non-Precedential Agreement

All components of the current Collective Bargaining Agreement between the Association and District not addressed by the terms of this agreement shall remain in full effect. This agreement is non-precedent setting.

R. Negotiating Impacts of Transitioning to the Hybrid Model of Instruction

The Parties will commence negotiation of the effects of transitioning to the hybrid model of no later than September 18, 2020.

S. Term

This MOU resolves the negotiable effects of the full-time distance learning program due to COVID-19.

The District and/or Association reserve the right to negotiate any additional impacts related to COVID-19 and re-opening schools or additional school closures in the 2020-2021 school year.

This MOU shall expire in full without precedent on June 30, 2021, unless extended by mutual written agreement.

The Parties have tentatively agreed to the provisions in the MOU, to become effective upon ratification by the Governing Board of the SMFCSD and the SMETA membership.

Signed by:

For SMETA: Julie Macarthur Date: 7/21/2020

For DISTRICT: Sue Wieser Date: 07/21/20  
Digitally signed by Sue Wieser  
DN: cn=Sue Wieser, o, ou,  
email=swieser@smfcsd.net, c=US  
Date: 2020.07.21 17:56:52 -07'00'

