



State of California—Health and Human  
Services Agency  
**California Department of  
Public Health**



August 3, 2020

**TO:** All Californians

**SUBJECT:** COVID-19 and Reopening In-Person Learning Elementary Education Waiver Process

## Overview

California schools have been closed for in-person instruction since mid-March 2020 due to the COVID-19 pandemic. School closures to in-person instruction were part of a broader set of recommendations intended to reduce transmission of SARS-CoV-2, the virus that causes COVID-19. The California Department of Public Health (CDPH) developed the *COVID-19 and Reopening In-Person Learning Framework* (PDF) to support school communities as they decide when and how to implement in-person instruction for the 2020-21 school year.

This framework permitted schools and school districts to reopen for in-person instruction at any time if they are located in a local health jurisdiction (LHJ) that has not been on the county monitoring list within the prior 14 days. If the LHJ has been on the monitoring list within the last 14 days, the school must conduct distance learning only, until their LHJ has been off the monitoring list for at least 14 days.

The framework authorized local health officers (LHO) to grant a waiver of this criteria, in order for elementary schools to open for in-person instruction under specified conditions. Applicants must satisfy all waiver requirements in order to be granted a waiver. Waivers should be granted or denied pursuant to the process outlined below.

## Waiver Process

- **CDPH recommends that schools within jurisdictions with 14-day case rates more than two times the threshold to be on the County Monitoring List (>200 cases/100,000 population) should not be considered for a waiver to re-open in-person instruction.**
- Closed elementary schools in counties on the monitoring list within the prior 14 days may not open for in-person instruction until they have received approval of a waiver submitted to the LHO.
- This elementary school waiver is applicable only for grades TK-6, even if the grade configuration at the school includes additional grades.
- A district superintendent, private school principal/head of school, or executive director of a charter school (hereinafter applicant) can apply for a waiver from the LHO to open an elementary school for in-person instruction.
- Applications and all supporting documents must be submitted to the LHO at least 14 days prior to the desired reopening date.
- Prior to applying for the waiver, the applicant (or his/her staff) must (1) consult with labor, parent, and community organizations, and (2) publish elementary school reopening plans on the website of the local

educational agency (or equivalent). Examples of community organizations include school-based non-profit organizations and local organizations that support student enrichment, recreation, after-school programs, health services, early childhood services or provide family support.

- As described in the *CDPH/CalOSHA Guidance for Schools and School-Based Programs* (PDF), elementary school reopening plans must address several topics related to health and safety, in a manner consistent with guidance from CDPH and the local health department. Those topics include:
  - Cleaning and disinfection
  - Small, stable, cohorting
  - Entrance, egress, and movement within the school
  - Face coverings and other essential protective gear
  - Health screenings for students and staff
  - Healthy hygiene practices
  - Identification and tracing of contacts
  - Physical distancing
  - Staff training and family education
  - Testing of students and staff
  - Triggers for switching to distance learning
  - Communication plans
- When applying for the waiver, the applicant must submit to the LHO a waiver application form, to be provided by the LHO. The application must include evidence of (1) consultation with labor, parent, and community organizations and (2) publication of the elementary school reopening plans on the website of the local educational agency (or equivalent).
  - The applicant must sign an attestation confirming the names and dates that the organizations were consulted. If school staff are not represented by a labor organization, then the applicant must describe the process by which it consulted with school staff.
  - The applicant must confirm publication of the elementary school reopening plans on the website of the local educational agency (or equivalent).
- If applying on behalf of a school district, the applicant should submit a consolidated application and publish a plan for elementary schools in the district that are seeking to reopen for in-person instruction. If applying for an independent, private, faith-based, or charter school, the applicant should submit an application and publish a plan for each school.
- Upon receipt of a waiver application, the LHO will review and consider the application, supporting materials, and the following:
  - Available scientific evidence regarding COVID-related risks in schools serving elementary-age students, along with the health-related risks for children who are not provided in-person instruction.
  - State law directing public schools to "offer in-person instruction to the greatest extent possible." (Ed. Code § 43504).
  - Whether elementary in-person instruction can be provided in small, stable cohorts.
  - Local health guidance, safety plans, availability of appropriate PPE, and availability of public health and school resources for COVID-19 investigation and response.
  - Current new case rate, testing % positivity trends, and the number and degree of indicators above thresholds to be on the County Monitoring List.
  - Local hospitalization trends and hospital capacity.
  - Any other local conditions or data contributing to inclusion on the County Monitoring List.
  - Availability of testing resources within the community and via employee health plans.
  - The extent to which the applicant has consulted with staff, labor organizations, community, and parent organizations.
- Following review, the LHO will consult with CDPH regarding the determination whether to grant or deny the waiver application. Consultation with CDPH is accomplished by submitting a notice pursuant to CDPH instructions.
  - CDPH will acknowledge receipt of the notice and follow up if there are any questions or concerns. CDPH will provide technical assistance as requested.

- If the LHO has not received a further response within three business days of submission, the waiver application may be approved or denied consistent with CDPH instructions.
- LHOs may conditionally grant an application with limits on the number of elementary schools allowed to re-open or allow re-opening in phases to monitor for any impact on the community.
- Closed elementary schools in counties on the monitoring list within the prior 14 days may not open for in-person instruction until they have received approval of a waiver submitted to the LHO.

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