

**MEMORANDUM OF UNDERSTANDING BETWEEN BENICIA UNIFIED
SCHOOL DISTRICT AND BENICIA TEACHERS ASSOCIATION**

**HEALTH AND SAFETY PROTOCOLS FOR IN PERSON LEARNING, SMALL
GROUP COHORTS, AND TESTING DURING COVID-19 PANDEMIC**

October 6, 2020

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PANDEMIC October 2020**

The Benicia Unified School District (“District”) and the Benicia Teachers Association (“Association”), jointly known as the Parties (“Parties”) enter into this Memorandum of Understanding (“MOU”) regarding the issues related to the coronavirus COVID-19 pandemic and the return to school during the 2020-2021 school year. The protocols in this MOU are being written to clarify health and safety guidelines for:

1. In person testing of students, especially students with disabilities, English Learners, and any other students who need to be assessed.
2. Small group instruction for students with disabilities, English Learners, and other students who need intervention and academic support.
3. Hybrid Learning with 50% of the students present from each class at one time.
4. Fulltime in person learning of all students present in each class at one time.

As of the date of this MOU, the Parties recognize that the COVID-19 pandemic necessitates significant modifications to the operation of schools to minimize the health risks associated with COVID-19 infection for all students, staff, and their families while also providing equitable access to education for students.

The Parties acknowledge that staff and students may need to self-quarantine, become quarantined, and/or the District may need to close a learning cohort or close school(s) on an emergency basis to slow the spread of infection and illness arising from COVID-19 during the 2020-2021 school year.

Unless otherwise noted below, the provisions of this MOU shall supersede any provisions of the Collective Bargaining Agreement between the Parties that are in conflict for the duration of this MOU, or until modified by mutual agreement of the District and the Association. This agreement is non-precedent setting. The Parties affirm the obligation to comply with all provisions of the Collective Bargaining Agreement (“CBA”) not in conflict with this MOU. Further, the Parties affirm that all provisions of the Educational Employment Relations Act (“EERA”) *California Government Codes 3540 et seq.* apply and remain in effect.

The Parties agree to the following:

CRITERIA FOR SAFELY PROVIDING IN PERSON INSTRUCTION

Upon determination that schools are safe to re-open for the 2020-2021 school year based on the following criteria, the District may open on a hybrid in-person model. If the following criteria are not met, the District shall reopen with or remain in Virtual Learning.

1. PPE available for all staff at least 10 days prior to the first in-person day.

2. Follow guidance from the Governor's office regarding school reopening and closing procedures.
3. All safety measures are in place as described in this agreement.
4. The ability to provide stable cohort groups in TK- 5 not to exceed 50% of the normal class size until schools are allowed to return full time. Cohorts at the secondary level will be negotiated in the hybrid MOU.
5. Health screening, testing, notification, and quarantine protocols and procedures, that are in alignment with CDC and Solano County Health Department recommendation, will be created and shared with the Association at least two weeks (14 days) prior to in-person instruction occurring.

1.0 Definitions

- 1.01 “Classroom” – is any academic, learning, assessment, or instructional space used by students, certificated, classified, parents, administrators, or other adults on a school campus. This applies to both indoor and outdoor learning spaces, and includes libraries, computer or scientific laboratories, study halls, or any other common space on a school campus.
- 1.02 “Cohort” – is a group of students assigned to a class at the elementary and middle school levels. Cohorts are designed to remain cohort and intact in order to prevent the spread of infection and illness arising from COVID-19.
- 1.03 “Common Equipment” – is any school equipment or structure that is designed to be used or shared by more than one individual. This includes, but is not limited to, technology, books, computers, recess/playground equipment, physical education equipment, pens, pencils, etc.
- 1.04 “Common Space” – is any indoor or outdoor space on a school campus designed or commonly used by more than one group of individuals. This includes, but is not limited to, school offices, nurse stations, playgrounds, blacktops, quads or outdoor gathering spaces, hallways, bathrooms, etc.
- 1.05 “Daily Cleaning and disinfection” - to cleanse (a surface, a device, etc.) by destroying, inactivating, or significantly reducing the concentration of pathogenic agents.
- 1.06 “Decontamination” -. A higher level of cleansing that rids all surfaces and the air of contamination. This level of cleaning will use different equipment than regular daily cleaning .
- 1.07 “Face Coverings” – Masks as recommended by federal, state, and local public health guidance.
- 1.08 Medical Apparatus - Medical hardware on the head necessary for essential functioning.
- 1.09 “Gathering” - any non-instructional in person event of 15 or more people where social distancing is not possible and/or where cohorts might be mixed together.

- 1.10 “Hand Sanitizer” – this product must contain at least 60% alcohol. Hand sanitizers containing methanol are toxic and shall not be used. (see CDC and FDA Advisories.)
- 1.11 “High Risk” - more likely than others to get a particular disease, condition, or injury.
- 1.12 “Hybrid”- A maximum of 50% of students are allowed on campus at one time.
- 1.13 “Personal Protective Equipment” (PPE) – this refers to equipment that is used to limit or prohibit the transmission or infection of COVID-19 from person to person. It is also commonly referred to as Essential Protective Equipment or Essential Protective Gear and includes face coverings, masks, N95 respirators, face shields, neck guards, barriers, gloves, goggles, etc.
- 1.14 “Physical Distancing” – also known as social distancing to help decrease the spread of the virus by increasing the space between people to at least six (6) feet and reducing the number of different people with whom a person interacts.
- 1.16 “Small Group” - A maximum of 16 people while we are in the purple tier (employees and students) in a cohort following the Governor’s guidelines from September 1, 2020.
- 1.17 “Virtual learning” - For the purpose of this MOU, “virtual learning” means instruction that occurs for the student “at home” through digital learning tools.
- 1.18 “Visitor” - a person visiting a campus or district facility who is not an employee or a student, and does not have approved and/or pre-planned business on campus.

2.0 PERSONAL PROTECTIVE EQUIPMENT (“PPE”)

- 2.01 The District shall provide PPE to all unit members and students for every day that unit members or students are required to report to school sites. Each staff member will be given up to five (5) 2-layer cloth masks for the year or daily 3-ply disposable masks on a monthly basis as requested. Staff will indicate their preference in advance via a staff survey. Extra disposable masks will be available in the office if needed. Staff members and students would need to bring their allotted PPE with them to their work and school site as the District would not be able to provide new PPE on a daily or weekly basis. The District shall provide N95 or KN95 masks for any unit member who is high risk or their work environment is higher risk and requests them.
- 2.02 In-lieu of using District-provided PPE, unit members and students may bring their own PPE so long as the PPE complies with public health guidelines and provides equivalent protection to the PPE provided by the District.
- 2.03 Unit members shall not be required to bring their own PPE.

2.04 No Unit member shall be required to teach without proper PPE.

Face Covering Requirements

2.05 Masks are required to be worn properly (masks over nose and mouth) at all times by all individuals on a school campus indoors or outdoors, unless the staff member is isolated in their work space. This mask requirement applies to all staff, all students in grades Pre-K-12, all administrators, and any visitors on campus over two years of age. Prior to the first day of instruction, but no less than two weeks prior to the first day of in person instruction, the District in conjunction with BTA and other staff shall develop and share with staff a plan to deal with students, staff, and visitors who are not in compliance with the face covering requirements.

2.05.1 Masks shall not be required for staff if there is a medical or behavioral contraindication verified in writing from a medical professional.

2.05.2 Masks shall not be required for students if there is a medical or behavioral contraindication verified in writing from a medical professional. For teachers in this environment, the District shall provide additional PPE such as goggles, disposable protective isolation clothing, bite guards, and gloves, in addition to masks and face shields as requested.

2.06 For unit members and students who cannot wear a mask according to section 2.05.1 and 2.05.2, face shields with neck drapes tucked into the shirt shall be used. Masks and face shields may not be required for students with medical apparatus which prevents or obstructs the use of the apparatus. If unavailable, another solution will be mutually agreed upon.

Hand Washing Requirements

2.07 The Parties recognize that frequent hand washing for a minimum of 20 seconds minimizes the spread of COVID-19.

2.08 All individuals shall be required to wash their hands or use hand sanitizer upon entering district sites and every time a classroom is entered.

2.09 The District shall comply with the following hand washing requirements:

2.09.1 Every classroom with a sink(s) shall be stocked with soap dispenser(s), and no touch paper towels system.

2.09.2 Every classroom and non-classroom common work spaces shall be provided with hand sanitizer with a pump dispenser.

2.09.3 School Entryways and Multiuse Rooms shall be provided a touchless hand sanitizer unit.

2.09.4 All hand washing/hand sanitizing supplies noted above or otherwise provided shall be checked and restocked immediately as needed and prior to the beginning of each day that staff or students are on campus.

3.0 IN-PERSON TESTING, SMALL GROUP COHORT INSTRUCTION, AND IN-PERSON LEARNING

The COVID-19 pandemic has caused federal, state, and local public health officers to issue orders and guidance impacting the educational operations of the District in order to minimize health and safety risks associated with COVID-19 infection and illness. As a result of the orders and guidance issued by federal, state, and local public health officers, any in-person learning offered by the District during the pandemic shall be offered consistent with all of the provisions below. District will consider making reasonable accommodations (i.e. continuing to work virtually) on a case by case basis depending on the employee's need, for employees who are immunocompromised and bring a doctor's note as long as employees are able to perform essential functions of their job virtually.

Adherence to Health Guidelines and Orders

- 3.01 The District shall adhere to the COVID-19 guidelines and orders issued by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (CDPH), California Department of Education (CDE), California Department of Industrial Relations Division of Occupational Safety and Health (Cal-OSHA), and Solano County Public Health Department.
- 3.02 Where there is a conflict between the various guidelines or orders, the District shall adhere to the most restrictive guidelines or orders in order to minimize potential health and safety risks for all unit members, students, and their families.
- 3.03 The Parties agree to meet as soon as possible to negotiate the impact and effects of any revisions or updates to the guidelines in section 3.01.

Physical Distancing

Classroom/Instructional/Academic Learning Spaces

- 3.04 The District shall ensure minimum physical distancing of six (6) feet between all student workspaces, between all educator and student workspaces, and between all employee workspaces.

- 3.04.1 The District shall calculate the maximum capacity of all workspaces while maintaining physical distance requirements. The capacity for each classroom space shall be posted prior to the start of in-person learning.
- 3.04.2 All workspaces shall be measured and marked to maintain the physical distancing requirement prior to the start of in-person learning, by the custodian with direction from the teacher or site administrator.
- 3.04.3 Staff and students shall also refrain from touching and hugging each other while on school and District property.
- 3.04.4 Clear dividers that are a hard material that is transparent with minimal distortion, shall be provided for all teacher workstations, as requested by the teacher, when surveyed in advance by the district. For SDC and SCIL the dividers must be affixed to the table or desk where the unit member is working.
- 3.05 In rare situations where the minimum physical distancing requirement is insufficient to provide necessary academic instruction or assessments, as mutually agreed to by the unit member and the site administrator, alternative and effective safety devices shall be used such as clear dividers and/or face shields in addition to masks.
- 3.06 No unit member shall be directed to violate the six (6) feet of physical distancing requirement except to prevent imminent bodily or physical harm from occurring.

Lunch/Brunch

- 3.07 Accommodations will be made to maintain physical distance of six (6) feet between students, and between staff and students, who eat lunch on campus and between all staff during their lunch/brunch period(s) based on any agreed upon in-person MOU. No unit member will be required to supervise students during lunch/brunch.
- 3.08 Education Code 44813 requires a duty-free lunch period of at-least thirty (30) minutes each workday.
 - 3.08.1 If the District requires students to stay in class for lunch/brunch due to the school site facility's inability to maintain physical distancing requirements during lunch/brunch, it shall be the District's responsibility to provide supervision coverage by a non-unit member. No unit member shall be required to work during the duty-free lunch time, nor shall they be pressured or coerced to do so.
- 3.09 Staff lounge capacity while maintaining physical distancing requirements shall be determined and posted on all entrances to the staff lounge.

One-Way Directions/Movement

- 3.10 In order to help maintain physical distancing requirements in all common walkways and congregation areas (both outdoor and indoor), the District shall create unidirectional pathways. These pathways shall be clearly marked to indicate the direction of travel and the six (6) feet physical distance spacing requirements.

School Entrance and Exit Points

- 3.11 Since students, parents, and staff tend to congregate in large groups at access points before and after school:
 - 3.11.1 School sites shall identify multiple access points to be used for student entrance and exit before and after school.
 - 3.11.2 Where possible, staff, and students will be encouraged to use an assigned ingress and egress point for use when coming to and leaving from school for in-person learning. Parents should stay in the vehicle during drop off and pick up when appropriate.
 - 3.11.3 In order to minimize contacts to staff, campuses will be closed to students and visitors until 10 minutes before the start of the school day.
 - 3.11.4 Unit members will be in their classrooms 10 minutes before the start of day and students will head straight to their classroom upon arrival to the campus.

Meetings and Gatherings

- 3.12 In order to maintain the health and safety of staff, mandatory in-person meetings shall be prohibited during the 2020-2021 school year (including but not limited to, staff meetings, department meetings, grade level meetings, 504s, IEPs, SSTs, professional development, committee meetings, district meetings, staff gatherings, etc). All mandatory meetings shall be held virtually and shall be scheduled during asynchronous or non-instructional time.
- 3.13 Voluntary (no member will be forced to attend) small group (no more than six people) in-person meetings of staff held for the purpose of collaboration must follow the safety protocols outlined here. All staff must wear appropriate face coverings at all times and maintain at least six (6) feet of physical distancing. Meetings must be in rooms large enough to accommodate the distancing requirements, with windows open as much as possible.
- 3.14 No Large in-person gatherings shall be held (i.e. school assemblies or rallies) during the 2020 -2021 school year.

- 3.14.1 Specifics about end of the year events will be determined in the spring. No unit member shall be required to attend any in-person events against their will.

Other Health and Safety Issues

Daily Cleaning and Disinfecting

- 3.15 The District shall ensure that all classroom spaces, restrooms, common spaces, and workspaces are cleaned and disinfected daily, or between classes, cohorts, or testing, including but not limited to desks, doorknobs, light switches, faucets, and other high touch fixtures, using the safest and most effective disinfectant necessary, as recommended by federal, state, and/or local health officials.
- 3.16 Daily cleaning and disinfecting shall be done by trained custodial personnel. Certificated unit members shall not be required to perform daily cleaning and disinfecting. To ensure proper disinfecting teachers and other staff must leave the school by 4:30 PM.
- 3.17 All Chemicals used for cleaning and disinfecting of science lab classrooms must be made known to the teachers in those rooms in order to prevent any hazardous chemical interactions.
- 3.18 Upon request of the Association, the District shall provide copies of all Safety Data Sheets (“SDSs”) required to be maintained by Cal-OSHA. All SDS binders are located in the main office and custodial closets for review.

Regular Decontamination of Classroom Spaces

- 3.19 Regular decontamination of classroom spaces and staff workspaces shall be completed at least once per week. Decontamination shall be done by trained, qualified professionals. Decontamination shall occur with sufficient time for any harmful chemicals to dissipate prior to the space being occupied by staff, students, administrators, or visitors.

Air Ventilation and Filtration

- 3.20 The Parties affirm that public health officials indicate that proper ventilation is necessary to minimize the transmission and infection from COVID-19 especially for individuals in a closed space for extended periods of time by reducing the airborne concentration of the virus and thus the risk of transmission and infection of COVID-19 through the air. All locations with functioning windows shall be encouraged to keep them open depending on weather, temperature, or air quality conditions.
- 3.21 The District shall ensure all HVAC systems operate on the mode which delivers the most fresh air changes per hour, including disabling demand-controlled ventilation, and open outdoor air dampers to 100% as indoor and outdoor conditions safely permit.

- 3.21.1 HVAC air filters shall be equipped with MERV 13 filters or equivalent at a minimum and shall be changed at the manufacturer recommended intervals.
- 3.21.2 Portable classrooms and/or other classroom spaces or workspaces without existing or adequate central HVAC shall be equipped with low noise MERV 13 air filtration units with a large enough capacity and flow rate for the square footage of the room or a room change will occur.
- 3.21.3 If an individual tests positive for COVID-19, the District will pull the HVAC filters at the school site to be tested for the presence of COVID-19. The test results shall be shared with the Public Health Officer and the Association President.
- 3.21.4 Classroom internal temperatures must be maintained below 80 degrees fahrenheit.
- 3.21.5 In the event that the HVAC system must be shut down for any reason in a particular classroom or classrooms, and the air quality is such that windows and doors cannot be opened for adequate ventilation, that class or classes will be moved to another space on campus with functioning HVAC. If an adequate space cannot be located, that class or classes affected will move to virtual learning for that day or until the issue is resolved.
- 3.21.6 In the event that the HVAC system must be shut down for an entire site for any reason for more than 15 minutes, and the air quality is such that windows and doors cannot be opened for ventilation, then the District shall move the corresponding schools to virtual learning and if the shutdown occurs during the school day, asynchronous learning shall occur for the remainder of that day.

Health Screening, Testing, Notification, and Contact Tracing

- 3.22 Each school site shall have a designated Health Monitor (appropriate office staff), who will follow the [Appendix 1- specified guidelines](#) for overseeing the safety and health of all students and staff to the campus each day. The Health Monitor shall:
 - 3.22.1 Coordinate with the District Nurse if any individuals shows COVID-19 symptoms;
 - 3.22.2 Primarily care for any individuals that manifest symptoms associated with COVID-19;
 - 3.22.3 Implement quarantine protocols at the school by consulting the District Nurse.
- 3.23 The specified guidelines (from 3.22 linked here) will be shared with the association at least two weeks (14 days) prior to in-person learning occurring. All students and BTA

Unit Members will be trained on these specified guidelines before in-person learning commences.

- 3.24 Parents will be required to complete the consent form daily during [Appendix 2- in person testing](#) and [Appendix 3- small group instruction](#) and return it to the school. Schools will follow CDC guidelines for health screening. Parents will be required to complete the consent form prior to the first day of in person [Appendix 4- in-person learning](#), and return it to the school. Schools will follow [Appendix 5- CDC guidelines for health screening](#). Sites will send reminders every week about completing the at home health screening,
- 3.25 No parent volunteers or guest speakers will be allowed on school sites. Visitors will not be allowed past the office during 2020-2021 school year. Visitor access to school campuses will be monitored by office staff. If there are visitors that must come to the school site (i.e. parents picking up students, UPS, vendors, contractors, etc.) the school site, with support from the District, will have protocols in place to limit campus access. Visitors with any symptom consistent with COVID-19 shall be denied entry.
- 3.26 Staff and students with any symptoms consistent with COVID-19 or who have had close contact with a person with COVID-19 shall be sent home or sent to an isolation room on site, pending travel home or to a medical facility.
- 3.27 Upon notification that an employee or student has been infected with COVID-19, the District shall initiate contact tracing procedures in conjunction with the Solano County Public Health Department. All persons who may have come in contact with the infected individual shall be notified. The District shall notify the Association President of the location(s) where the infected individual was present on the school campus during the suspected incubation/active infection period maintaining HIPAA policies.
- 3.28 School District Employees are eligible for free COVID-19 testing through Kaiser, Anthem, or Solano County Health department (SCHD testing is done through CVS pharmacy). [Appendix 6 Current Testing Availability](#).

4.0 **LEAVES**

Families First Coronavirus Relief Act (FFCRA expires December 31, 2020)

During the COVID-19 pandemic, employees have access to the same leaves they would typically [sick leave, personal necessity (up to 7 days of available sick leave balance), vacation (as applicable), compensatory time (as applicable)], in addition to emergency leave benefits granted under the Families First Coronavirus Response Act (FFCRA- HR 6201). Benefits made available through FFCRA become effective April 1, 2020 and it expires on December 31, 2020.

Leaves granted under the FFCRA include:

4.01 Emergency Paid Sick Leave (“EPSL”) – up to 80 hours of paid sick leave (prorated for part-time; total of two work weeks) when an employee is unable to work on-site or remotely:

4.02 FULL PAY maximum \$511/day and \$5,110 total:

1. The employee is subject to a quarantine or isolation order related to COVID-19 by federal, state, or local government; or
2. The employee has been advised to self-quarantine related to COVID-19 by a healthcare provider; or
3. The employee is experiencing COVID-19 symptoms and seeking medical diagnosis; or

4.02.1 The District shall make up any difference between the FFCRA pay and the full pay of the unit member.

4.03 2/3 PAY maximum \$200/day and \$2,000 total:

4. The employee is caring for an individual who is subject to (1) or (2); or
5. The employee is caring for a son or daughter whose school or place of care is closed or whose caregiver is unavailable due to COVID-19 precautions; or
6. The employee is experiencing a “substantially similar condition” as specified by the Department of Health and Human Services (DHHS).

4.04 Emergency Family Medical Leave Expansion Act (“Emergency FMLEA”)

Employees who have been employed for at least 30 calendar days and are unable to work on-site or remotely due to childcare issues as a result of school or place of care closure (or unavailability of childcare provider) [i.e. qualifying reason number 5 above] may be entitled to up to 12 workweeks of leave for childcare purposes. The first two weeks of Emergency FMLEA leave is unpaid, unless employees elect to utilize accrued paid leave, including EPSL during this time. The remaining 10 workweeks of leave are paid at 2/3 their regular rate of pay for up to \$200 daily and \$10,000 total (\$12,000 total for the 12 workweeks). An employee may elect to cover the difference between the cap of \$200/day for childcare leave and their full rate of pay by using accrued sick leave.

Important note: Emergency Paid Sick Leave may not exceed a total of two (2) weeks. When combined with Emergency FMLEA, leaves may not exceed twelve (12) weeks total. Employees are able to use other available leaves to remain in paid status and are encouraged to work with Personnel to understand their total leave rights.

4.05 The District shall follow guidelines from [Appendix 7 SB1159](#) regarding workers compensation benefits for employees testing positive while at work.

4.06 Any employee who is required to be quarantined, yet well enough to work, shall be expected to continue to complete the functions of their regular duties remotely with no loss of pay or leave. If the employee is not able to work remotely, then they can use the EPSL, as stated above. [Appendix 8 Follow employee protocols](#) from this document.

- 4.07 Upon return from leave, every attempt will be made to restore the member's previous position immediately prior to going on leave.

5.0 COVID-19 EXPOSURE AND COHORT/SCHOOL SITE CLOSURE

- 5.01 Staff, administrators, and students who are sick are expected to remain home and shall not be permitted on a District site while sick.
- 5.02 If a staff member, administrator, student, or parent associated with a stable student cohort tests positive for COVID-19, the cohort will immediately be notified and placed on a fourteen (14) day quarantine. During this period of quarantine, students will receive distance learning. The District or site administrator will ensure that the students will have a certificated teacher providing distance learning instruction. The bargaining unit member, if medically able to do so, shall continue to provide instruction to the cohort during distance learning. The unit member being quarantined will be provided one asynchronous day to plan and prepare for distance learning.
- 5.03 The District will work with the Solano County Public Health Department to ensure that all staff and students being quarantined are given resources about how to properly quarantine and to provide access to medical professionals if illness manifests itself.
- 5.04 If 25% or more of the total stable student cohorts at a specific school site or within the District are quarantined at any given time, or if a potential outbreak of COVID-19 is suspected by a federal, state, or local public health officer, the District shall close the entire school site or entire District as necessary. Within 48 hours of school and/or District closure, the academic program shall transition to a total distance learning model until such time as it is deemed reasonably safe to return to an in-person or hybrid learning model.
- 5.05 If a school transitions from in-person to virtual learning or vice versa, unit members from that site shall be given two days of asynchronous learning to prepare for teaching in the new modality.
- 5.06 All closed classroom spaces, worksites, rooms, school sites, or other District facilities shall be thoroughly cleaned and disinfected prior to being re-opened for in-person learning.
- 5.07 The District shall communicate any and all decisions about closures and re-opening to all bargaining unit members at a school site or district wide as appropriate. Such communication shall be by email or by telephone.
- 5.08 If closure is recommended by the local public health department, the District and Association shall revert to Virtual learning and follow the agreements in the MOU dated July, 2020.

6.0 TRAINING

- 6.01 Consistent with federal, state, and local public health officer guidelines, appropriate staff shall be trained in the following areas, including but not limited to:
 - 6.01.1 Reinforcing the importance of health and safety practices and protocols;
 - 6.01.2 Cleaning and disinfecting protocols, cleaning supplies and equipment;
 - 6.01.3 Physical distancing requirements, personal protective equipment, and stable classroom cohort protocols;
 - 6.01.4 Health screening protocols and procedures;
 - 6.01.5 Protocols on responding to individuals who manifest symptoms associated with COVID-19 while at school;
 - 6.01.6 Protocols on responding to individuals with a family member or someone in close contact with a student or staff member who tests positive for COVID-19;
 - 6.01.7 Protocols on responding to a student or staff member testing positive for COVID-19; and
 - 6.01.8 Any other orders or guidelines in operation at a District site for which a bargaining unit member is expected to understand and comply with.
- 6.02 The District shall provide appropriate software and training for bargaining unit members required to engage with students in a virtual setting either as part of in-person learning, distance learning, or a hybrid model.
- 6.03 The District shall provide a minimum of 72 hours' notice to all bargaining unit members of additional required COVID training hours or days not already provided for in the CBA.
- 6.04 Please refer to the BTA/BUSD MOU in regard to Professional Development for the 2020-21 School Year.

7.0 ACCESS LIMITATIONS AND ASSOCIATION RIGHTS

The District shall develop and implement a plan and shall share the plan with the Association no less than 2 weeks prior to beginning any in-person instruction, to minimize access to school sites, and limit non-essential visitors, facility use permits, and volunteers.

8.0 GRIEVANCE

- 8.01 Parties agree to work collaboratively if there are any disagreements. If parties are unable to resolve issues, then any provisions of this MOU are subject to the negotiated grievance procedure in the CBA. Due to the potential urgency of disputes connected to providing and maintaining safe and healthy schools for all students, staff, and their families, according to the provisions of this MOU, an expedited timeline for the negotiated grievance process may be entered into by mutual agreement of both Parties.

9.0 CONSULTATION RIGHTS AND RESERVE RIGHT TO FURTHER NEGOTIATE

- 9.01 Due to the evolving nature of the pandemic, the District and/or Association reserve the right to negotiate safety and/or any additional impacts and effects related to the COVID-19 pandemic and/or additional school closures in the 2020-2021 school year.
- 9.02 Bell Schedules for the hybrid models will be bargained at least two weeks prior to initiating hybrid/in-person learning.

10.0 DURATION

- 10.01 The Parties share joint interests in keeping communications open and working collaboratively for the benefit of students, staff, parents, and the District community as events continue to unfold during the pandemic.
- 10.02 This MOU shall expire in full without precedent on June 4, 2021 unless extended by mutual written agreement of the Parties.

Appendix 1
Student/Staff Symptom Decision Tree Guidelines

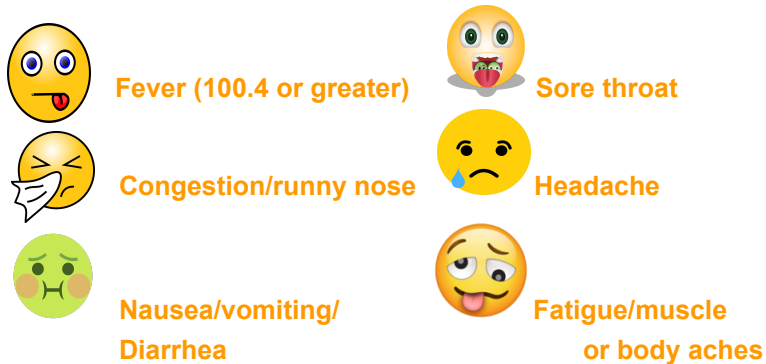
Screen all students for potential COVID-19 symptoms or exposure

The following guidelines are intended to help school staff screen students/staff complaining of or exhibiting signs of illness during the school day.

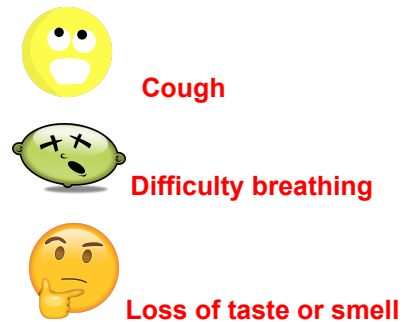
1. Office staff conducting temperature checks or health services staff conducting health assessments on potentially ill individuals must wear PPEs which include an N95 mask and gloves when managing anyone with COVID-19 symptoms.
2. Students who are ill should be assessed for fever with a hand held thermometer isolated at least 6 feet from others, use hand sanitizer, wear a mask (unless experiencing difficulty breathing). Students experiencing any COVID-19 symptoms, such as fever, vomiting, and/or diarrhea must be sent home.
3. Office staff should immediately notify parents to pick up their child while following the school's instructions pertaining to sign out and designated pick up areas.
4. If a student is sent to the office with any physical symptoms of illness they should bring all their personal belongings. The student will remain in the isolation area until a parent arrives. If they feel unwell on the playground and are sent to the office without their belongings, the teacher will place their belongings outside the classroom door and office staff will retrieve them and place them in the student pick up area.

Student/Staff Symptom Decision Tree Screening for COVID-19 Symptoms & Exposure

Low-risk: general symptoms



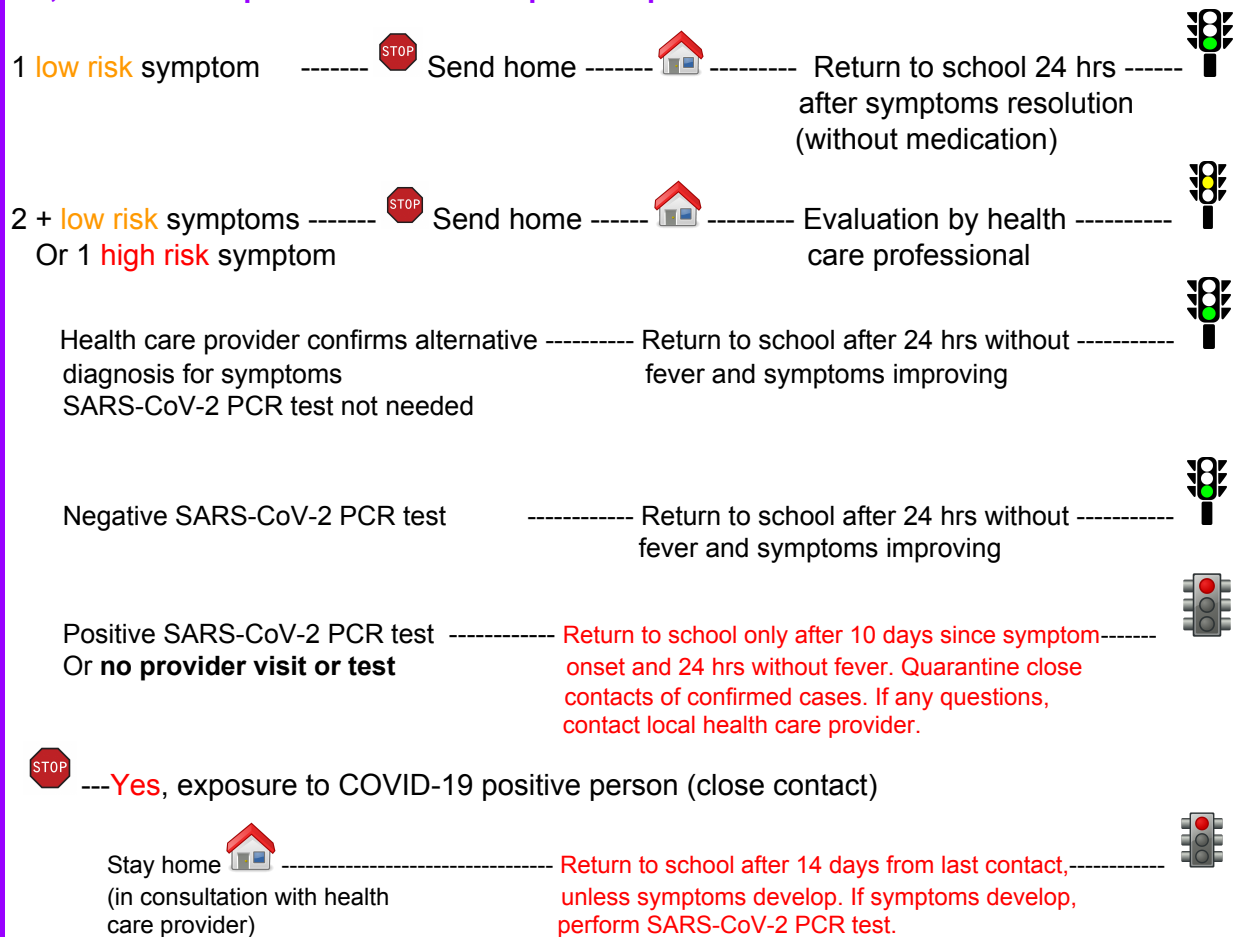
High-risk: red flag symptoms



Exposure to COVID-19 positive person?

Close contact: less than 6 feet, 15 minutes or longer without a mask.

No, no known exposure to COVID-19 positive person:



*This information is designed to assist school personnel and is not intended to replace the clinical judgement or established protocol for all patients with a particular condition. Parents should always contact their healthcare professional if they have questions about this protocol or their child's health or symptoms.



Appendix 2

Dear Parent/Guardian:

You are receiving this letter because your child is due for an assessment at this time. While Benicia Unified School District is currently in Distance Learning due to Covid-19; BUSD has planned for mandatory assessments to be completed in-person. This means that your child may come to school during a scheduled appointment to complete assessments with the school's assessment team.

The Benicia Unified School District in conjunction with CDC and Solano County Health Officials continues to recommend precautions, due to the continued COVID-19 health crisis. The District is proposing seeing your child in person during Virtual Learning. The school district has deemed it absolutely necessary that telepractice or remote assessment is not possible and will not produce comprehensive and adequate results. The District has made careful considerations regarding which assessments are essential at this time to make important educational decisions. The assessment may include but not limited to, initial school placement, transition school placement, triennial IEP assessment, ELPAC, etc. However, to protect your family and that of the assessment team, the District has taken protective precautions to decrease the risk of exposure.

Please note that to mitigate the risks of Covid-19 transmission, the following expectations and guidelines must be followed:

Prior to coming for in-person assessment:

1. Please complete the home screening as outlined in [CDC Daily Screening](#) prior to the testing appointment. Students with a temp of 100.4 or higher, respiratory symptoms such as cough, shortness of breath or other COVID-19 symptoms must reschedule their appointment.
2. Please complete and return this 'Consent Form' to the assessor prior to moving on to the next step.
3. Students or family members exposed to a positive COVID case within the past 48 hours must reschedule their testing time.

Upon arrival to school for assessment the Parent will do the following:

4. Parents are to email or call the assessor at the arrival of their assessment window. The parent and student are to remain in the car and wear a mask at all times.
5. Parents may stay and wait in the car or schedule a pick up time with the assessor.

Upon arrival to school for assessment the assessor will do the following:

6. Assessor will meet the family in the parking lot and secure the student for testing after signing him/her in. While maintaining social distancing, the assessor uses the checklist to assess for risk factors by:

- a. Verbally screening students for known or suspected COVID-19 in self or close contacts.
 - b. Verbally screening students for fever, cough or respiratory systems in self or close contacts.
- 7. Once the checklist is completed, the student is provided hand sanitizer.
- 8. Assessor will wear a facial mask.
- 9. Your child will also be required to wear a mask at all times while he/she is on campus.

During assessment:

- 10. The assessor and child will be separated by a clear divider.
- 11. Your child must be able to independently enter school and remain in the room with the individual completing the assessment.
- 12. In the event that your child is unable to wear a mask or face shield due to a medical condition, documentation from the healthcare professional. Otherwise the assessment will be cancelled and the child must be picked up by the parent/s right away.
- 13. Hand sanitizer will be provided to the student prior to and after use of assessment materials.
- 14. Testing materials will be sanitized (following district guidelines) prior to and following the assessment.
- 15. Six feet physical distancing will be adhered to as much as possible; however, it is important to note that with some assessments the examiner may be unable to remain 6-feet away due to use of assessment materials and standardization.
- 16. Your comfort level for allowing your child to attend in-person assessment is important. You have the right to make the decision about making your child available for in-person assessment. As you make this decision, please consider the full-spectrum of risks involved including the health-risks of Covid-19 transmission. For any questions or concerns, please contact your child's assessment team.

I declare that neither my student, nor any members of my household are in quarantine for COVID-19 or currently have symptoms of COVID-19 as stated in the CDC home screening form.

I, _____, understand that BUSD is taking all the necessary precautions to mitigate the risk of COVID-19 exposure outlined by CDPH and CDC. I understand that even with safety measures there have been cases of COVID-19 transmission occurring with public exposure. If my child, or anyone in my family, tests positive for COVID-19 within 14 days, I will contact the Benicia Unified School District directly.

I, _____, consent to bringing my child, _____, to school for in-person hybrid instruction:

Parent Signature

Date

Phone Number for Student Pickup: _____



Appendix 3

Dear Parent/Guardian:

You are receiving this letter because your child's school and/or teacher is asking your child to participate in small group instruction to provide additional support. The Benicia Unified School District in conjunction with CDC and Solano County Health Officials continues to recommend precautions, due to the continued COVID-19 health crisis. The District has made careful considerations regarding health and safety protocols to be followed when students are on campus. To protect your family and BUSD staff, the District has taken protective precautions to decrease the risk of exposure.

Please note that to mitigate the risks of Covid-19 transmission, the following expectations and guidelines must be followed:

Prior to coming for small group instruction:

1. Please complete the home screening as outlined in [CDC Daily Screening](#) prior to sending your child to school. Students with a temp of 100.4 or higher, respiratory symptoms such as cough, shortness of breath or other COVID-19 symptoms must reschedule their appointment.
2. Please complete and return this 'Consent Form' to your child's teacher at the beginning of each day of small group instruction.
3. Students or family members exposed to a positive COVID case within the past 48 hours must reschedule their testing time.

Upon arrival to school for small group instruction:

4. When dropping your child to school, the parent is to remain in the car and drop the child in the drop-off zone.
5. All students need to wear masks properly covering their nose and mouth before entering the school.

Your comfort level for allowing your child to attend small group instruction is important. You have the right to make the decision about making your child available for small group instruction. As you make this decision, please consider the full-spectrum of risks involved including the health-risks of Covid-19 transmission. For any questions or concerns, please contact your child's school.

I declare that neither my student, nor any members of my household are in quarantine for COVID-19 or currently have symptoms of COVID-19 as stated in the CDC home screening form.

I, _____, understand that BUSD is taking all the necessary precautions to mitigate the risk of COVID-19 exposure outlined by CDPH and CDC. I understand that even with safety measures there have been cases of COVID-19 transmission occurring with public exposure. If my child, or anyone in my family, tests positive for COVID-19 within 14 days, I will contact the Benicia Unified School District directly.

I, _____, consent to bringing my child, _____, to school for in-person hybrid instruction:

Parent Signature

Date

Phone Number for Student Pickup: _____



Appendix 4

Dear Parent/Guardian:

You are receiving this letter because your child's school is starting in-person instruction. The Benicia Unified School District in conjunction with CDC and Solano County Health Officials continues to recommend precautions, due to the continued COVID-19 health crisis. The District is proposing to provide in-person instruction. The District has made careful considerations regarding health and safety protocols to be followed when students are on campus. To protect your family and BUSD staff, the District has taken protective precautions to decrease the risk of exposure.

Please note that to mitigate the risks of Covid-19 transmission, the following expectations and guidelines must be followed:

Prior to coming for in-person learning daily:

1. Please complete the home screening as outlined in [CDC Daily Screening](#) prior to sending your child to school. Students with a temp of 100.4 or higher, respiratory symptoms such as cough, shortness of breath or other COVID-19 symptoms must reschedule their appointment.
2. Please complete and return this 'Consent Form' to your child's school prior on the first day of in-person learning.
3. Students or family members exposed to a positive COVID case within the past 48 hours must reschedule their testing time.

Upon arrival to school for in-person hybrid instruction:

4. When dropping your child to school, the parent is to remain in the car and drop the child in the drop-off zone unless otherwise prearranged with the school site.
5. All students need to wear masks properly covering their nose and mouth before entering the school.

I declare that neither my student, nor any members of my household are in quarantine for COVID-19 or currently have symptoms of COVID-19 as stated in the CDC home screening form.

I, _____, understand that BUSD is taking all the necessary precautions to mitigate the risk of COVID-19 exposure outlined by CDPH and CDC. I understand that even with safety measures there have been cases of COVID-19 transmission occurring with public exposure. If my child, or anyone in my family, tests positive for COVID-19 within 14 days, I will contact the Benicia Unified School District directly.

I, _____, consent to bringing my child, _____, to school for in-person hybrid instruction:

Parent Signature

Date

Phone Number for Student Pickup: _____

Daily Home Screening for Students

Parents: Please complete this short check each morning and report your child's information [INSERT YOUR SCHOOL REPORTING INSTRUCTIONS] in the morning before your child leaves for school.

SECTION 1: Symptoms

If your child has any of the following symptoms, that indicates a possible illness that may decrease the student's ability to learn and also put them at risk for spreading illness to others. Please check your child for these symptoms:

	Temperature 100.4 degrees Fahrenheit or higher when taken by mouth
	Sore throat
	New uncontrolled cough that causes difficulty breathing (for students with chronic allergic/asthmatic cough, a change in their cough from baseline)
	Diarrhea, vomiting, or abdominal pain
	New onset of severe headache, especially with a fever

SECTION 2: Close Contact/Potential Exposure

	Had close contact (within 6 feet of an infected person for at least 15 minutes) with a person with confirmed COVID-19
	Traveled to or lived in an area where the local, Tribal, territorial, or state health department is reporting large numbers of COVID-19 cases as described in the Community Mitigation Framework
	Live in areas of high community transmission (as described in the Community Mitigation Framework) while the school remains open



Appendix 6

COVID-19 testing resources for BUSD staff

1. CVS "Minute Clinic"

CVS is offering free testing to community members through Solano County Health Dept. All you have to do is go to their website linked here ([CVS Minute Clinic](#)) type in your zip code and the website will offer the closest minute clinic near you. Follow the onscreen instructions to set your appointment today!

2. Verify Baseline COVID-19 Program

California has partnered with Verily, like their partnership with OptumServe, to provide free and confidential testing.

- A. You will first have to complete their [online screening process](#) here using a Google Account.
- B. If you are determined to be eligible, you will receive information on how and where to get tested.

3. Kaiser Permanente members

Kaiser is currently testing essential worker that are asymptomatic
Log in to kp.org and identify yourself as essential non-health care worker to make an appointment

4. Anthem members

Anthem will cover your COVID-19 test, contact Anthem's member service line located on your member ID card and Anthem will help you get an appointment with a testing provider.

5. Blue Shield members

https://www.blueshieldca.com/bsca/bsc/wcm/connect/sites/Sites_Content_EN/coronavirus/testing-faqs

Senate Bill No. 1159

CHAPTER 85

An act to add Section 77.8 to, and to add and repeal Sections 3212.86, 3212.87, and 3212.88 of, the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 2020. Filed with
Secretary of State September 17, 2020.]

legislative counsel's digest

SB 1159, Hill. Workers' compensation: COVID-19: critical workers. Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee, as defined, for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. Existing law governs the procedures for filing a claim for workers' compensation, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed, as specified. Existing case law provides for how certain presumptions may be rebutted.

This bill would define "injury" for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2023. The bill would create a disputable presumption, as specified, that the injury arose out of and in the course of the employment and is compensable, for specified dates of injury. The bill would limit the applicability of the presumption under certain circumstances. The bill would require an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. The bill would also make a claim relating to a COVID-19 illness presumptively compensable, as described above, after 30 days or 45 days, rather than 90 days. Until January 1, 2023, the bill would allow for a presumption of injury for all employees whose fellow employees at their place of employment experience specified levels of positive testing, and whose employer has 5 or more employees.

This bill would require the Commission on Health and Safety and Workers' Compensation to conduct a study of the impacts of COVID-19 and the specific presumptions created by this bill and report its findings to the Legislature and the Governor, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 77.8 is added to the Labor Code, to read: 77.8. The Commission on Health and Safety and Workers' Compensation shall conduct a study of the impacts claims of COVID-19 have had on the workers' compensation system, including overall impacts on indemnity benefits, medical benefits, and death benefits, including differences in the impacts across differing occupational groups, and including the effect of Sections 3212.87 and 3212.88. A preliminary report or a final report shall be delivered to the Legislature, pursuant to Section 9795 of the Government Code, and the Governor by December 31, 2021, and the final

report shall be delivered to the Legislature, pursuant to Section 9795 of the Government Code, and the Governor no later than April 30, 2022.

SEC. 2. Section 3212.86 is added to the Labor Code, immediately following Section 3212.85, to read:
3212.86. (a) This section applies to any employee with a COVID-19-related illness.

(b) The term “injury,” as used in this division, includes illness or death resulting from COVID-19 if both of the following circumstances apply: (1) The employee has tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction.

(2) The day referenced in paragraph (1) on which the employee performed labor or services at the employee’s place of employment at the employer’s direction was on or after March 19, 2020, and on or before July 5, 2020. The date of injury shall be the last date the employee performed labor or services at the employee’s place of employment at the employer’s direction.

(3) If paragraph (1) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a licensed physician and surgeon holding an M.D. or D.O. degree or state licensed physician assistant or nurse practitioner, acting under the review or supervision of a physician and surgeon pursuant to standardized procedures or protocols within their lawfully authorized scope of practice, and that diagnosis is confirmed by testing or by a COVID-19 serologic test within 30 days of the date of the diagnosis.

(c) The compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) (1) If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits or benefits under Section 4800, 4800.5, or 4850 are due and payable. If an employee does not have those sick leave benefits, the employee shall be provided temporary disability benefits or Section 4800, 4800.5, or 4850 benefits, if applicable, from the date of disability. There shall not be a waiting period for temporary disability benefits.

(2) To qualify for temporary disability or Section 4800, 4800.5, or 4850 benefits under this section, an employee shall satisfy either of the following: (A) If the employee has tested positive or is diagnosed with COVID-19 on or after May 6, 2020, the employee shall be certified for temporary disability within the first 15 days after the initial diagnosis, and shall be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis.

(B) If the employee has tested positive or was diagnosed with COVID-19 before May 6, 2020, the employee shall have obtained a certification, no later than May 21, 2020, documenting the period for which the employee was temporarily disabled and unable to work, and shall be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis.

(3) An employee shall be certified for temporary disability by a physician holding a physician’s and surgeon’s license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. If the employee has a predesignated physician pursuant to subdivision (d) of Section 4600, is covered by a medical provider network pursuant to Article 2.3 (commencing with Section 4616) of Chapter 2 of Part 2, is covered by a workers’ compensation health care organization pursuant to Article 2 (commencing with Section 4600) of Chapter 2 of Part 2, or is covered by a group health plan, the certifying physician shall be a physician and surgeon in that network, organization, or plan. Otherwise, the certifying physician may be a physician and surgeon of the employee’s choosing.

(e) An injury described in subdivision (b) is presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence. Unless controverted, the appeals board is bound to find in accordance with the presumption.

(f) Notwithstanding Section 5402, if liability for a claim of a COVID-19-related illness is not rejected within 30 days after the date the claim form is filed pursuant to Section 5401, the illness shall be presumed compensable. The presumption of this subdivision is rebuttable only by evidence discovered subsequent to the 30-day period.

(g) The Department of Industrial Relations shall waive the right to collect any death benefit payment due pursuant to Section 4706.5 arising out of claims covered by this section.

(h) This section applies to all pending matters except as otherwise specified, including, but not limited to, pending claims relying on Executive Order N-62-20. This section is not a basis to rescind, alter, amend, or reopen any final award of workers' compensation benefits.

(i) For purposes of this section:

(1) "COVID-19" means the 2019 novel coronavirus disease. (2) "Place of employment" does not include an employee's residence. (j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 3. Section 3212.87 is added to the Labor Code, to read:

3212.87. (a) This section applies to the following employees: (1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision. (B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit. (2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the United States Department of Defense as meeting its standards for firefighters. (3) Active firefighting members of a fire department that serves a National Aeronautics and Space Administration installation and who adhere to training standards established in accordance with Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code. (4) Active firefighting members of a fire department that provides fire protection to a commercial airport regulated by the Federal Aviation Administration (FAA) under Part 139 (commencing with Section 139.5) of Subchapter G of Chapter 1 of Title 14 of the Federal Code of Regulations and are trained and certified by the State Fire Marshal as meeting the standards of Fire Control 5 and Section 139.319 of Title 14 of the Federal Code of Regulations

(5) Peace officers, as defined in Section 830.1 of the Penal Code, subdivisions (a), (b), (e), (f), and (h) of Section 830.2 of the Penal Code, subdivision (a) of Section 830.3 of the Penal Code, subdivisions (a) and (b) of Section 830.37 of the Penal Code, subdivisions (a) and (b) of Section 830.5 of the Penal Code, and subdivision (a) of Section 830.53 of the Penal Code, who are primarily engaged in active law enforcement activities.

(6) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, "fire and rescue services coordinators" means coordinators with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(7) An employee who provides direct patient care, or a custodial employee in contact with COVID-19 patients, who works at a health facility. For the purposes of this subdivision, "health facility" means a health facility as defined in subdivision (a), (b), (c), (m), or (n) of Section 1250 of the Health and Safety Code.

(8) An authorized registered nurse, emergency medical technician-I, emergency medical technician-II,

emergency medical technician-paramedic, as described in Chapter 2 (commencing with Section 1797.50) of Division 2.5 of the Health and Safety Code.

(9) An employee who provides direct patient care for a home health agency, as defined under Section 1727 of the Health and Safety Code. (10) Employees of health facilities, other than those described in paragraph (7). For these employees, the presumption shall not apply if the employer can establish that the employee did not have contact with a health facility patient within the last 14 days who tested positive for COVID-19. If it is determined that the presumption does not apply, the claim shall be evaluated pursuant to Sections 3202.5 and 3600. For the purposes of this subdivision, "health facility" means a health facility, as defined in subdivision (a), (b), (c), (m), or (n) of Section 1250 of the Health and Safety Code.

(11) A provider of in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, or Sections 14132.95, 14132.952, and 14132.956 of, the Welfare and Institutions Code, when they provide the in-home supportive services outside their own home or residence.

(b) The term "injury," as used in this division, includes illness or death resulting from COVID-19 if all of the following circumstances apply: (1) The employee has tested positive for COVID-19 within 14 days after a day that the employee performed labor or services at the employee's place of employment at the employer's direction.

(2) The day referenced in paragraph (1), on which the employee performed labor or services at the employee's place of employment at the employer's direction, was on or after July 6, 2020. The date of injury shall be the last date the employee performed labor or services at the employee's place of employment at the employer's direction prior to the positive test.

(c) The compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits or benefits under Section 4800, 4800.5, or 4850 are due and payable. If an employee does not have those sick leave benefits, the employee shall be provided temporary disability benefits or Section 4850 benefits, if applicable, from the date of disability. There shall not be a waiting period for temporary disability benefits.

(e) An injury described in subdivision (b) is presumed to arise out of and in the course of the employment, except as provided in this subdivision. This presumption is disputable and may be controverted by other evidence. Unless controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a person described in subdivision (a) following termination of service for a period of 14 days, commencing with the last date actually worked in the specified capacity at the employee's place of employment as described in subdivision (b).

(f) Notwithstanding Section 5402, if liability for a claim of a COVID-19-related illness is not rejected within 30 days after the date the claim form is filed pursuant to Section 5401, the illness shall be presumed compensable. The presumption of this subdivision is rebuttable only by evidence discovered subsequent to the 30-day period.

(g) The Department of Industrial Relations shall waive the right to collect any death benefit payment due pursuant to Section 4706.5 arising out of claims covered by this section.

(h) This section applies to all pending matters, unless otherwise specified in this section, but shall not be a basis to rescind, alter, amend, or reopen any final award of workers' compensation benefits.

(i) For purposes of this section:

(1) "COVID-19" means the 2019 novel coronavirus disease. (2) Unless otherwise indicated, "test" or "testing" means a PCR (Polymerase Chain Reaction) test approved for use or approved for emergency use by

the United States Food and Drug Administration to detect the presence of viral RNA. “Test” or “testing” does not include serologic testing, also known as antibody testing. “Test” or “testing” may include any other viral culture test approved for use or approved for emergency use by the United States Food and Drug Administration to detect the presence of viral RNA which has the same or higher sensitivity and specificity as the PCR Test.

(3) An “employee’s place of employment” does not include an employee’s home or residence.

(j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 4. Section 3212.88 is added to the Labor Code, to read: 3212.88. (a) This section applies to employees who are not described in Section 3212.87, who test positive during an outbreak at the employee’s specific place of employment, and whose employer has five or more employees.

(b) The term “injury,” as used in this division, includes illness or death resulting from COVID-19 if all of the following circumstances apply: (1) The employee tests positive for COVID-19 within 14 days after a day that the employee performed labor or services at the employee’s place of employment at the employer’s direction.

(2) The day referenced in paragraph (1) on which the employee performed labor or services at the employee’s place of employment at the employer’s direction was on or after July 6, 2020. The date of injury shall be the last date the employee performed labor or services at the employee’s place of employment at the employer’s direction prior to the positive test.

(3) The employee’s positive test occurred during a period of an outbreak at the employee’s specific place of employment.

(c) The compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits, benefits under Section 4800, 4800.5, or 4850 or Section 44977, 44984, 45192, 45196, 87780, 87787, 88192, or 88196 of the Education Code are due and payable. If an employee does not have those sick leave benefits, the employee shall be provided temporary disability benefits or Section 4850 benefits, if applicable, from the date of disability. There shall not be a waiting period for temporary disability benefits.

(e) (1) An injury described in subdivision (b) is presumed to arise out of and in the course of the employment, except as provided in this subdivision. This presumption is disputable and may be controverted by other evidence. Unless controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a person described in subdivision (a) following termination of service for a period of 14 days, commencing with the last date actually worked in the specified capacity at the employee’s place of employment. This section does not affect an employee’s rights to compensation for an injury or illness under this division in accordance with a preponderance of evidence.

(2) Evidence relevant to controverting the presumption may include, but is not limited to, evidence of measures in place to reduce potential transmission of COVID-19 in the employee’s place of employment and evidence of an employee’s nonoccupational risks of COVID-19 infection.

(f) Notwithstanding Section 5402, if liability for a claim of a COVID-19-related illness is not rejected within 45 days after the date the claim form is filed pursuant to Section 5401, the illness shall be presumed compensable. The presumption of this subdivision is rebuttable only by evidence discovered subsequent to the 45-day period.

(g) The Department of Industrial Relations shall waive the right to collect any death benefit payment due pursuant to Section 4706.5 arising out of claims covered by this section.

(h) This section applies to all pending matters, unless otherwise specified in this section, but is not a basis

to rescind, alter, amend, or reopen any final award of workers' compensation benefits.

(i) When the employer knows or reasonably should know that an employee has tested positive for COVID-19, the employer shall report to their claims administrator in writing via electronic mail or facsimile within three business days all of the following:

(1) An employee has tested positive. For purposes of this reporting, the employer shall not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee asserts the infection is work related or has filed a claim form pursuant to Section 5401.

(2) The date that the employee tests positive, which is the date the specimen was collected for testing.

(3) The specific address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test.

(4) The highest number of employees who reported to work at the employee's specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.

(j) An employer or other person acting on behalf of an employer who intentionally submits false or misleading information or fails to submit information when reporting pursuant to subdivision (i) is subject to a civil penalty in the amount of up to ten thousand dollars (\$10,000) to be assessed by the Labor Commissioner.

(1) If, upon inspection or investigation, the Labor Commissioner determines that an employer or other person has intentionally submitted false or misleading information in violation of subdivision (i), the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally, in the same manner as provided for service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, by certified mail with return receipt requested, or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

(2) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, they shall, within 15 business days after service of the citation, notify the office of the Labor Commissioner which appears on the citation of their request for an informal hearing. The Labor Commissioner or their deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. The decision of the Labor Commissioner shall consist of a notice of findings, findings, and order which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court, as long as the party agrees to pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ of mandate shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(3) An employer or person to which a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(4) If the party filing a writ of mandate is unsuccessful in challenging the decision of the hearing officer, the Labor Commissioner shall recover costs and attorney fees.

(k) (1) The claims administrator shall use information reported pursuant to subdivision (i) to determine if an outbreak has occurred for the purpose of administering a claim pursuant to this section. To calculate the

number of employees at a specific place of employment, the claims administrator shall utilize the data reported pursuant to subdivision (i) for the first employee who is part of the outbreak, or, for claims between July 6, 2020, and the effective date of this section, the number reported under paragraph (2).

(2) Any employer who is aware of an employee testing positive on or after July 6, 2020, and prior to the effective date of this section, shall report to their claims administrator, in writing via electronic mail or facsimile, within 30 business days of the effective date of this section, all of the data required in subdivision (i). For the data required by paragraph (4) of subdivision (i), the employer shall instead report the highest number of employees who reported to work at each of the employee's specific places of employment on any given work day between July 6, 2020, and the effective date of this section. The claims administrator shall use the information reported under this paragraph to determine if an outbreak has occurred from July 6, 2020, to the effective date of this section, for the purpose of applying the presumption under this section.

(l) A claim is not part of an outbreak if it occurs during a continuous 14-day period where the requisite number of positive tests under paragraph (4) of subdivision (m) have not been met. For purposes of applying the presumption in this section, the claims administrator shall continually evaluate each claim to determine whether the requisite number of positive tests have occurred during the surrounding 14-day periods.

(m) For purposes of this section:

(1) "COVID-19" means the 2019 novel coronavirus disease. (2) Unless otherwise indicated, "test" or "testing" means a PCR (Polymerase Chain Reaction) test approved for use or approved for emergency use by the United States Food and Drug Administration to detect the presence of viral RNA. "Test" or "testing" does not include serologic testing, also known as antibody testing. "Test" or "testing" may include any other viral culture test approved for use or approved for emergency use by the United States Food and Drug Administration to detect the presence of viral RNA which has the same or higher sensitivity and specificity as the PCR Test.

(3) (A) "A specific place of employment" means the building, store, facility, or agricultural field where an employee performs work at the employer's direction. "A specific place of employment" does not include the employee's home or residence, unless the employee provides home health care services to another individual at the employee's home or residence.

(B) In the case of an employee who performs work at the employer's direction in multiple places of employment within 14 days of the employee's positive test, the employee's positive test shall be counted for the purpose of determining the existence of an outbreak at each of those places of employment, and if an outbreak exists at any one of those places of employment, that shall be the employee's "specific place of employment."

(4) An "outbreak" exists if within 14 calendar days one of the following occurs at a specific place of employment:

(A) If the employer has 100 employees or fewer at a specific place of employment, 4 employees test positive for COVID-19.

(B) If the employer has more than 100 employees at a specific place of employment, 4 percent of the number of employees who reported to the specific place of employment, test positive for COVID-19.

(C) A specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection with COVID-19.

(n) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In light of the Governor's declaration on March 4, 2020, of a state of emergency due to the spread of COVID-19, and because of the heightened risk of COVID-19 infection to frontline workers and workers whose workplaces have suffered a COVID-19 outbreak, it is necessary that this act take effect immediately.



Appendix 8 Employee COVID Exposure

BUSD follows the current recommended guidelines set by the CDC, State and County Health Departments in regards to a sick employee:

1. BUSD employees who are ill should stay home until they are well and discuss symptoms with their healthcare provider for potential COVID-19 testing.
2. BUSD staff members exposed to a **confirmed COVID-19** case should immediately notify their supervisor, contact their healthcare provider or public health department for testing, monitor symptoms and stay home until confirmed negative. The supervisor will immediately email health services for contact tracing purposes. This is confidential information and will only be shared with health services and HR. The employee must report their absence to the frontline absence management system unless the employee is able to work virtually to complete their job responsibilities.
3. Exposure to COVID-19 comes from direct contact with respiratory secretions of someone who has the virus through coughing and sneezing. Exposure often occurs with household members or through close contact with another person. **Close contact means that you have been less than 6 feet away with an infected person for more than 15 minutes with one or both individuals not wearing a cloth face covering.**
4. If a BUSD employee tests positive for COVID-19, all staff exposed to that person will be notified without identifying the individual. Close contacts exposed should request a COVID-19 test from their physician or public health department, monitor their symptoms and self isolate until they receive test results. A positive COVID-19 staff member may return to work after 10 days and is symptom free; a negative test is not required. If they are not symptom free, they are to stay at home.
5. The work area of a COVID-19 positive individual must be thoroughly cleaned and disinfected prior to any staff returning to that area.
6. Employees who are ill **without close contact to a positive COVID-19 case** should consult their health care provider to determine whether they are at risk for COVID-19 or need to be tested. Those with a negative test may return to work when their symptoms have resolved and are fever free for 24 hours without medication unless otherwise instructed by their health care provider or Solano County Health Department.
7. BUSD reports all self reported or known positive COVID cases of staff and students to Solano County Public Health Department communicable disease program. SCPH will assist BUSD with implementation of case investigation and contact tracing as needed. Solano Public Health will provide instructions to the individual regarding isolation and return to school.

For further information regarding COVID-19 or concerns about possible indirect exposure, please go to the Solano County Public Health Department website or call the warm line at 707-784-8988.
Created: 09/30/2020