

**MEMORANDUM OF UNDERSTANDING
BETWEEN BENICIA UNIFIED SCHOOL DISTRICT AND BENICIA TEACHERS ASSOCIATION
2021-22 SCHOOL YEAR FULL REOPENING FOR IN-PERSON LEARNING/INSTRUCTION AND
CLASSROOM SAFETY DUE TO COVID-19 PANDEMIC
August 2021**

Students and staff are very excited that our schools will be opening fully for in-person instruction in the Fall. We agree with the Department of Education, CDPH and the CDC that it is paramount that our schools are open for in-person learning. This MOU is to ensure the following;

1. The continual safety of students regarding COVID19.
2. The continual safety of staff regarding COVID19.
3. To ensure the least number of positive cases on school sites for 2021- 22 school year.
4. Help support classrooms with tools, training, and other necessary materials to address learning loss.

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 2021-2022 school year. The protocols in this MOU are to clarify current health and safety guidelines for returning to full in person instruction.

As of the date of this MOU, the Parties recognize that the COVID-19 pandemic continues to necessitate 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 school(s) on an emergency basis to slow the spread of infection and illness arising from COVID-19 during the 2021-2022 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.

When adhering to any federal, state or local guidelines, if there is conflict between the guidance, the most strict guidance shall apply.

The District, in collaboration with the Association, agrees to make adjustments for the 2021-2022 school year as follows:

1.0 DEFINITIONS

- 1.01 “Face Coverings” – cloth face coverings or masks as recommended by federal, state, and local public health guidance.
- 1.02 “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)

- 1.03 “Personal Protective Equipment” – 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.
- 1.04 “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 IN-PERSON INSTRUCTION

- 2.01 School staff shall limit the number of in-person visits to classrooms in order to minimize the spread of the illness. Administrators and essential support staff may be present in classrooms only when necessary to do their job.
- 2.02 Any unit member who teaches in person shall have no virtual students.
- 2.03 Masks are required to be worn properly (masks over nose and mouth) at all times by all individuals on a school campus while indoors, unless the staff member is isolated in their work space, or a group of completely vaccinated staff is eating lunch together with no students or unvaccinated staff present. 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.
 - 2.03.1 Masks shall not be required for staff if there is a medical or behavioral contraindication verified in writing from a medical professional.
 - 2.03.2 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.
- 2.04 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.
- 2.05 Music and Band Instruction will adhere to the guidelines from Solano County and California State Health Departments for in-person learning.
- 2.06 The DISTRICT shall have a plan ready to close schools and return to distance learning if the state and/or local health department has determined that a resurgence has/will occur and that it is therefore necessary to reinstate a stay-at-home order. This plan shall be subject to bargaining by the parties.
- 2.07 Teachers will be expected to maintain their district-created Google Classrooms in case there is a need to return to virtual learning. Unit members shall be provided with an adequate, working laptop that can support any required digital instruction.

3.0 LIVE STREAMING WHILE PROVIDING IN PERSON INSTRUCTION

(This section is pending CDE guidance and ADA requirements.)

Under no circumstances shall a teacher be required to livestream. If the unit member elects to provide in-person and distance learning simultaneously (livestream) for students who are required to quarantine, the District shall provide and maintain appropriate equipment to provide a quality experience for students. The unit member shall focus on teaching the students who are present in the classroom and shall not be expected to change the method of delivering instruction due to livestreaming.

- 3.01 Unit Members will have the ability to control/disable the chat feature.
- 3.02 Unit members shall not be expected to monitor both the students in the classroom and the students who are at home. The unit member shall not be responsible for the behavior of the students who are online. If they become aware of a student's negative behavior, they shall follow the student discipline referral process.
- 3.03 Unit members shall not be required to respond to questions from online students while livestreaming.
- 3.04 After taking attendance at the beginning of the period, unit members shall not be required to monitor the waiting room or any other technological issues that the online students may have.
- 3.05 No information gathered from livestreaming shall be used in the evaluation of any unit member.
- 3.06 No information gathered from livestreaming shall be used in discipline of any unit member.
- 3.07 Any unit member who decides to livestream shall be offered district provided optional professional development (during the workday) on the use of the livestreaming equipment at least five working days prior to the start of any live streaming.
- 3.08 The livestream shall not be recorded without the written permission of the unit member.

4.0 SCHOOL SAFETY

Adherence to Health Guidelines and Orders

- 4.01 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.
- 4.02 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.
- 4.03 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 4.01.

Safety Measures and Equipment/Supplies

- 4.04 The District will post signs at all school entrances asking visitors, volunteers, and direct service providers to not enter the building if they have COVID-19 or symptoms of illness. While signing in visitors, volunteers, and direct service providers will consent that they do not have COVID-19 or symptoms of illness.
- 4.05 Staff and students with any symptoms consistent with COVID-19 will remain masked, sitting at least 6 feet away, not in a classroom, from others while awaiting pick up. Staff working with ill students or staff will wear N95 masks regardless of vaccination status. No bargaining unit member shall be required to monitor these students.
- 4.06 Students, employees, and visitors shall be required to wash their hands or use hand sanitizer upon entering DISTRICT sites and every time a classroom is entered.
- 4.07 For students who cannot or refuse to consistently wear a mask, the bargaining unit member shall report this issue to the site office immediately. Once the administrator receives notice of the incident they will follow the [discipline grid](#) linked here.
- 4.08 When there is a known positive case of COVID-19 of any student or staff on site, the District will follow CDPH guidelines for notifications and quarantine for those exposed or considered close contact.
- 4.09 The District shall ensure that all classroom spaces, restrooms, common spaces, and workspaces are cleaned daily, including but not limited to desks, doorknobs, light switches, faucets, and other high touch fixtures, as recommended by federal, state, and/or local health officials. A cleaning schedule should be available in the school office.
- 4.10 If a facility has had a positive COVID-19 case within the last 24 hours, clean and apply the disinfectant to the spaces occupied by that person during that time.
- 4.11 Daily cleaning shall be done by trained custodial personnel. Certificated unit members shall not be required to perform daily cleaning and disinfecting.
- 4.12 Disinfectant wipes shall be provided to the IPM trained unit members upon request. An alternative will be provided if disinfectant wipes become unavailable.
- 4.13 All Chemicals used for cleaning or disinfecting science lab classrooms must be made known to the teachers in those rooms in order to prevent any hazardous chemical interactions.
- 4.14 The District shall provide student and teacher desk see-through partitions as requested by the teacher. Teachers shall inform their administrators of such requests. See-through partitions should be a hard material that is transparent with minimal distortion.
- 4.15 All staff shall be provided and utilize Health and Safety Equipment: Personal Protective Equipment, gloves, disinfectant wipes, face shields, hand sanitizer, etc upon request. An alternative will be provided if certain PPE becomes unavailable.

- 4.16 Upon written request, N95 or KN95 masks and face shields shall be provided to bargaining unit members.

Air Ventilation and Filtration

- 4.17 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.
- 4.18 Where possible the district shall set HVAC controls to maximize fresh air intake, throughout a scheduled school day. After hour manual overrides (for increments of two hours) of the HVAC systems will be put into place where possible.
- 4.18.1 –HVAC systems shall be equipped with MERV 13 filters or equivalent. Filter will be changed at the manufacturer recommended intervals, sooner if determined otherwise.
- 4.18.2 Portable classrooms, locker rooms, multi use rooms and/or other classroom spaces or workspaces without existing or adequate central HVAC shall be equipped with low noise MERV 13 or HEPA air filtration units with a large enough capacity and flow rate for the square footage of the room..
- 4.18.3 Classroom internal temperatures must be maintained below 80 degrees fahrenheit.
- 4.18.4 To maximize air exchange and filtration HVAC/Fan units for all indoor spaces shall be set to begin a minimum of 2 hrs before the space will be occupied by students or staff and shall remain on a minimum of two hours after students have left when possible.
- 4.19 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.
- 4.20 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.
- 4.21 The DISTRICT shall have a plan ready to close schools and return to distance learning if the air quality due to wildfires is such that the HVAC systems must be shut down for

multiple days. This plan shall be subject to bargaining by the parties.

- 4.22 On a monthly basis a representative from the maintenance department will meet with the BTA Union President to discuss HVAC across the district.

5.0 VACCINATIONS

- 5.1 The District shall treat all people as unvaccinated and require a universal masking policy unless outside or seated indoors while eating or drinking.
- 5.2 The District shall continue to support COVID vaccinations by such as:
1. Setting up school vaccination clinics
 2. Partnering with other related vaccine activities in the community
 3. Providing resources and answering general questions about COVID vaccines for students and employees
 4. Allowing staff and students to attend vaccination appointments without any penalty or loss of leave
- 5.3 If it is determined that a booster of the current covid vaccine or a new vaccine becomes necessary for public health, unit members who become ill as a result of these vaccines, will be permitted up to three days of paid leave immediately following vaccination. This leave shall not be deducted from the member's sick, personal or extended illness leave. The employee will provide proof of vaccination to Human Resources.

6.0 CONTACT TRACING

- 6.1 Schools must adhere to required reporting requirements and notify, as indicated, the County Health Services Department of any newly reported case of COVID-19 for a student or staff member if the County has not yet contacted them about the case.
- 6.2 Using the County guidance and in collaboration with the county health department, the District Nurse will serve as the primary contact and contact tracer when situations arise with a possible COVID-19 exposure or a student tests positive for COVID-19.
- 6.3 The principal at each site shall be the designated COVID-19 contact person.
- 6.4 If a confirmed case occurs at a site all unit members at that site will be notified by the site administrator of the positive case.

7.0 LEAVES

- 7.01 When determining a unit member's potential COVID-19 exposure or exhibition of COVID-19 symptoms, protocols below will be followed.

- 7.02 If unit members are able to work virtually after COVID-19 exposure or after not being able to pass the self screening for their health, they shall continue to receive full compensation. They will need to inform their site administrator as soon as possible.
- 7.03 In the event that it is not medically possible for the unit member to continue teaching after COVID-19 **exposure**, the unit member may use accrued and applicable leave until it is determined by workers compensation whether the exposure was work related or not. Unit members will need to inform their site administrator as soon as possible and enter their absence.
- 7.04 In the event that it is not medically possible for the unit member to continue teaching after not being able to pass **self screening**, the unit member may use all accrued and applicable leave until it is determined it was work related COVID-19 exposure. Unit members will need to inform their site administrator as soon as possible and enter their absence.
- 7.05 The District shall comply with the provisions of Labor Code 230.8 and any other applicable statute and/or order which is in force at the time of the request in responding to requests by parent-employees pertaining to childcare matters.
- 7.06 In the event one or more classroom or District facility(s) must be closed, unit members will resume virtual learning until the facility(s) is cleared to reopen for in-person learning, unit members will not suffer any loss of pay or benefits to which they are entitled under the collective bargaining agreement.
- 7.07 If the entire District operations are curtailed due to the COVID-19 epidemic, unit members will not suffer any loss of pay or benefits to which they are entitled under the collective bargaining unit for the period of closure or curtailment as long as the District continues to receive funding from the State and/or Federal Government.
- 7.08 District will comply with SB 95 2021 COVID-19 [Supplemental Paid Sick Leave law](#) or any future leave related legislation.
- 7.09 Unit members shall have the right to use all accrued and applicable leave time as defined by the Collective Bargaining Agreement, including to care for a family member with COVID related illness, or the unit member may request unpaid leave.

8.0 IN-PERSON GATHERINGS

- 8.01 In order to maintain the health and safety of staff and students in non-classroom settings, in-person large group gatherings shall take place in large well ventilated space or outdoors for the first quarter of 2021-2022. When appropriate mandatory meetings may be held virtually.
- 8.02 Back to School Night shall be conducted in the same manner as 2020-2021.
- 8.03 Parent conferences, SSTs and IEPs shall have the option of being held virtually with parent agreement.

8.04 Protocols for in person gatherings will be assessed quarterly.

9.0 GRIEVANCE

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.

10.0 CONSULTATION RIGHTS AND RESERVE RIGHT TO FURTHER NEGOTIATE

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 2021-2022 school year.

11.0 DURATION

- 12.01 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.
- 12.02 This MOU shall expire in full without precedent on June 30, 2022 unless extended by mutual written agreement of the Parties.

Arianne Whiting

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BTA Representative

Date

Khushwinder Gill

BUSD Representative

Date

Discipline Grid: COVID Grid Additions

High School

The administration reserves the right to use discretion as needed at any time. Continued violation of school rules, Board Policy, and California Education Codes for discipline may result in a referral to the Student Attendance Review Board.				
Violation	Description of Violation	Discipline - 1st Offense	Discipline - 2nd Offense	Discipline - 3rd Offense
Defiance of COVID Safety Guidelines (EC48900 k)	Student fails to comply with district/school guidelines related to COVID hygiene, safety, and distancing, such as, but not limited to, failure to properly wear a face mask, etc.	Teacher/staff warning with referral. Administrator conference with parent and student; review safety guidelines and expectations.	Teacher/staff referral; class suspension. Administrator conference with parent and student. Student reassigned to independent study for one week.	Teacher/staff referral; class suspension. Administrator conference with parent and student. Student reassigned to independent study for the remainder of the school year.
Willful Violation of COVID Safety Guidelines; Attempting to Cause Harm (EC48900 a.1)	Creating a reasonable apprehension of immediate physical injury or medical harm to someone. Caused, attempted to cause, or threatened to cause physical injury to another person through willful violation of COVID safety guidelines, regardless of level of injury or end result. Example: coughing or spitting on another student.	When a student's behavior seriously jeopardizes the health and wellbeing of others as it relates to COVID-19, that student will be reassigned to independent study (from home) for the remainder of the school year. *The student may receive additional consequences up to and including suspension (3-5 days) and/or expulsion.		

This table would be added to current discipline grids

To see current BHS Discipline Grid: <https://bhs.beniciaunified.org/our-school/discipline-grid/>

Middle School

The administration reserves the right to use discretion as needed at any time. Continued violation of school rules, Board Policy, and California Education Codes for discipline may result in a referral to the Student Attendance Review Board.

Violation	Description of Violation	Discipline - 1st Offense	Discipline - 2nd Offense	Discipline - 3rd Offense
Defiance of COVID Safety Guidelines (EC48900 k)	Student fails to comply with district/school guidelines related to COVID hygiene, safety, and distancing, such as, but not limited to, failure to properly wear a face mask, etc.	Teacher warning with referral; Administrator conference with parent Teacher/staff warning with referral. Administrator conference with parent and student; review safety guidelines and expectations.	Class suspension with learning module; Administrator Teacher/staff referral; class suspension. Administrator conference with parent and student. Student reassigned to independent study for one week	Class suspension, Administrator conference with parent and student to discuss potential change in placement to virtual learning; Referral to Student Services Office
Willful Violation of COVID Safety Guidelines; Attempting to Cause Harm (EC48900 a.1)	Creating a reasonable apprehension of immediate physical injury or medical harm to someone. Caused, attempted to cause, or threatened to cause physical injury to another person through willful violation of COVID safety guidelines, regardless of level of injury or end result. Example: coughing or spitting on another student.	When a student's behavior seriously jeopardizes the health and wellbeing of others as it relates to COVID-19, that student will be reassigned to virtual learning (from home) for the remainder of the school year. The student may receive additional consequences up to and including suspension (3-5 days) and/or expulsion.		

Added info about masks to current dress code.

Current [BMS Discipline Grid](#) and PBIS Expectations

Elementary

The administration reserves the right to use discretion as needed at any time. Continued violation of school rules, Board Policy, and California Education Codes for discipline may result in a referral to the Student Attendance Review Board.

Violation	Description of Violation	Discipline - 1st Offense	Discipline - 2nd Offense	Discipline - 3rd Offense
Defiance of COVID Safety Guidelines (EC48900 k)	Student fails to comply with district/school guidelines related to COVID hygiene, safety, and distancing, such as, but not limited to, failure to properly wear a face mask, etc.	Teacher warning with referral; Administrator conference with parent and student	Class suspension with reteaching learning module; Administrator conference with parent and student	Class suspension, Administrator conference with parent and student to discuss potential change in placement to independent study; Referral to Student Services Office
Willful Violation of COVID Safety Guidelines; Attempting to Cause Harm (EC48900 a.1)	Creating a reasonable apprehension of immediate physical injury or medical harm to someone. Caused, attempted to cause, or threatened to cause physical injury to another person through willful violation of COVID safety guidelines, regardless of level of injury or end result. Example: coughing or spitting on another student.	Conflict resolution Parent contact by Administrator to review behavior, expectation and possible consequences Warning and re-teaching of guidelines	When a student's behavior seriously jeopardizes the health and wellbeing of others as it relates to COVID-19, that student will be reassigned to independent study (from home) for the remainder of the school year. The student may receive additional consequences up to and including suspension (3-5 days) and/or expulsion.	

2021 COVID-19 Supplemental Paid Sick Leave

Effective March 29, 2021

Covered Employees in the public or private sectors who work for employers with more than 25 employees are entitled to up to 80 hours of COVID-19 related sick leave from January 1, 2021 through September 30, 2021, immediately upon an oral or written request to their employer. If an employee took leave for the reasons below prior to March 29, 2021, the employee should make an oral or written request to the employer for payment.

A covered employee may take leave *if the employee is unable to work or telework for any of the following reasons:*

- Caring for Yourself: The employee is subject to quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace, has been advised by a healthcare provider to quarantine, or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Caring for a Family Member: The covered employee is caring for a family member who is subject to a COVID-19 quarantine or isolation period or has been advised by a healthcare provider to quarantine due to COVID-19, or is caring for a child whose school or place of care is closed or unavailable due to COVID-19 on the premises.
- Vaccine-Related: The covered employee is attending a vaccine appointment or cannot work or telework due to vaccine-related symptoms.

Paid Leave for Covered Employees

- 80 hours for those considered full-time employees. Full-time firefighters may be entitled to more than 80 hours, caps below apply.
 - For part-time employees with a regular weekly schedule, the number of hours the employee is normally scheduled to work over two weeks.
 - For part-time employees with variable schedules, 14 times the average number of hours worked per day over the past 6 months.
- Rate of Pay for COVID-19 Supplemental Paid Sick Leave: Non-exempt employees must be paid the highest of the following for each hour of leave:
 - Regular rate of pay for the workweek in which leave is taken
 - State minimum wage
 - Local minimum wage
 - Average hourly pay for preceding 90 days (not including overtime pay)
- Exempt employees must be paid the same rate of pay as wages calculated for other paid leave time.

Not to exceed \$511 per day and \$5,110 in total for 2021 COVID-19 Supplemental Paid Sick leave.

Retaliation or discrimination against a covered employee requesting or using COVID-19 supplemental paid sick leave is strictly prohibited. A covered employee who experiences such retaliation or discrimination can file a claim with the Labor Commissioner's Office. Locate the office by looking at the [list of offices on our website](http://www.dir.ca.gov/dlse/DistrictOffices.htm) (<http://www.dir.ca.gov/dlse/DistrictOffices.htm>) using the alphabetical listing of cities, locations, and communities or by calling 1-833-526-4636.

This poster must be displayed where employees can easily read it. If employees do not frequent a physical workplace, it may be disseminated to employees electronically.



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Signature: Khushwinder Gill
Khushwinder Gill (Aug 6, 2021 13:37 PDT)

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