



California County Superintendents Educational Services Association



San José Unified School District



Los Angeles County Office of Education
Serving Students • Supporting Communities
Leading Educators



MARIN COUNTY OFFICE OF EDUCATION

September 24, 2020

The Honorable Holly Mitchell
Chair, Budget & Fiscal Review
Committee
State Capitol, Room 5019
Sacramento, CA 95814

The Honorable Lena Gonzalez
Chair, Special Committee on Pandemic
Emergency Response
State Capitol, Room 2068
Sacramento, CA 95814

RE: COVID-19 Oversight and Reopening Schools

Dear Senator Mitchell and Senator Gonzalez:

On behalf of the following organizations listed below, we want to thank you for your work this year supporting local educational agencies in addressing the pandemic and appreciate your [letter](#) expressing interest to convene COVID-19 oversight hearings on outstanding issues over the next several months. We appreciate the inclusion of the safe reopening of schools as one of the policy areas you plan to review in the hearings. As part of your oversight hearings, we urge your support for safe reopening and fiscal viability of schools by providing temporary and conditional legal protections for COVID-19 claims when schools have fully adhered to state and local public health guidance.

California’s public schools are mandated by the Legislature to open for in-person activities to the greatest extent possible, especially for students with the greatest need.¹ We wholeheartedly share this goal, where and when it is safe to do so. Schools are following state and local health guidance while taking steps to ensure the health and safety of students and staff as the school year begins. Although local educational agencies are minimizing risk by following the guidance of public health officers, COVID-19 presents a unique risk due to its high degree of transmissibility.

Employees’ COVID-19 claims are covered through workers compensation but claims by third parties and students will not be. Overwhelmingly, COVID-19 transmission claims are specifically excluded from the insurance and risk pool policies that cover local educational agencies. This means litigation costs—even in cases where schools prevail—would have to be covered by a school district’s general fund. The threat of costly litigation will further impede the process of bringing students back to campus and reopening California’s economy. The prospect of a devastating lawsuit for which there is no insurance coverage is a prohibitive factor in the risk assessment of many school districts on whether to provide in-person classes.

Costly litigation means less money for addressing learning loss, connectivity, operations, and the multitude of other expenses schools incur in the process of educating California students. Not only are school districts experiencing declining enrollment and the prospects of reduced state funding in the future, but there are also significant one-time costs attributed to COVID-19 response efforts that will continue to increase the longer the pandemic lasts and in order to put the proper health and safety mechanism in place to safely reopen school campuses. Schools simply cannot bear the burden of all the potential claims for COVID-19—including those that may not have even occurred at a school site—without significantly and negatively impacting their ability to serve students.

Thank you for your consideration to discuss this critical element of school reopening. We hope you will support our schools by providing temporary and conditional legal protections for COVID-19 claims wherever schools have followed state and local public health guidance.

Sincerely,

Association of California School Administrators
California Association of Joint Powers Authority
California Association of School Business
Officials
California Association of Suburban School
Districts
California County Superintendents Educational
Services Association
California School Board Association
Central Valley Education Coalition
Glendale Unified School District

Kern County Superintendent of Schools
Long Beach Unified School District
Los Angeles County Office of Education
Los Angeles Unified School District
Marin County Office of Education
Orange County Department of Education
Riverside County Office of Education
San Jose Unified School District
SELPA Administrators of California
School Excess Liability Fund

cc: Governor Gavin Newsom
Senate Pro Tempore Toni Atkins
Members, Senate Budget and Fiscal Review Committee
Assembly Speaker Anthony Rendon
Members, Assembly Budget Committee

¹ See Education Code § 43504 (b)