



AB 86: SCHOOL REOPENING AND PUBLIC HEALTH REQUIREMENTS FOR CALIFORNIA K-12 SCHOOLS

- On Governor Gavin Newsom signed into law AB 86 (Chapter 10, Statutes of 2021)
- New requirements for reporting positive COVID-19 tests and in-person instruction reporting
- Safety plan requirements outlined for LEAs offering in-person instruction
- Surveillance testing required for LEAs in purple tier counties

On March 5, 2021, Governor Gavin Newsom signed into law AB 86 (Chapter 10, Statutes of 2021), a bill which makes appropriations and sets school reopening and public health requirements for California K-12 schools. This *Briefing* will summarize the public health and safety aspects of the new law. The following requirements are in effect immediately and will sunset as of June 30, 2022.

REPORTING POSITIVE COVID-19 TESTS

The law requires K-12 school administrators to notify the local health officer within 24 hours after learning of a positive COVID-19 test of a school employee or pupil that was present on campus while infectious. The report to the local health officer must include the following information, if known¹:

- Identifying information of the individual who tested positive, including full name, address, telephone number and date of birth;
- The date of the positive test, the school or schools at which the individual was present onsite, and the date the individual was last onsite at the applicable schools;
- The name, address and telephone number of the person making the report.

Beginning on March 15, 2021, a single school site of a local educational agency (LEA) with two or more outbreaks of COVID-19, as identified by a local health officer or the State Department of Public Health (CDPH), will be subject to safety review by CDPH.

Please note that these new requirements of AB 86 do not change the requirement of SB 1159 to report positive COVID-19 tests to your claims administrator within 3 business days.

¹ While normally such a disclosure would be restricted by the federal Family Educational Rights and Privacy Act of 1974 (FERPA), AB 86 provides that this notice should be given even without prior written consent, as a disclosure that is necessary to protect the health and safety of the student or other individuals pursuant to FERPA regulations.



IN-PERSON INSTRUCTION REPORTING

Also beginning on March 15, 2021, AB 86 requires every school district, county office of education (COE), charter or private school for K-12 to periodically notify the State Department of Public Health of the following:

- The number of students participating in full-time in-person instruction, hybrid learning, or distance learning, by school site and at the district level;
- The number of school employees who work on-site, by school site and at the district level;
- The number of students being served in cohorts while the school is closed for in-person instruction and the support and services they are receiving; and
- For school districts with students participating only in distance learning, the reasons for which in-person instruction is not being offered and the barriers the school district faces in providing in-person instruction.

These reports must be made on a form developed by the CDPH on or before the second and fourth Monday of each month, so the first report will be due by March 22, 2021.

COVID-19 SAFETY PLAN

AB 86 also requires every LEA offering in-person instruction for grades K-12 to post a completed COVID-19 safety plan on its website home page. The COVID-19 safety plan consists of two components: [COVID-19 Prevention Program](#) required by Cal-OSHA's emergency standards, and the [COVID-19 School Guidance Checklist](#) approved by CDPH. This is to be done at least five days before offering in-person instruction. LEAs in counties in the purple tier pursuant to the CDPH Blueprint for a Safer Economy must submit their COVID-19 safety plans to their local public health departments and the CDPH and resolve any deficiencies noted by those agencies before providing in-person instruction.

A Bulletin providing a template for the COVID-19 Prevention Plan required by Cal-OSHA for employers to use is posted on P&C Bridge for Keenan clients. You can also contact your Keenan risk management claims analyst for a copy of the Bulletin.

SURVEILLANCE TESTING

Finally, AB 86 provides that for a LEA in a county in the purple tier to provide in-person instruction, it must conduct asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs. However, that requirement does not apply if:

- On or before March 31, 2021, the LEA is providing in-person instruction or the governing board of the LEA has adopted a plan to provide in-person instruction and has publicly posted its COVID-19 safety plan on its website; or
- The LEA is in a county that moves from the purple tier into the red, orange or yellow tier.



For information about COVID-19 surveillance testing, including carrier and laboratories that can assist you, please see the attached *Briefing* <https://www.keenan.com/Resources/Briefing/Briefings-Detail/covid-19-surveillance-testing-information-for-essential-workers>

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