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September 23, 2021

To: District and Charter Business Services  
From: Sarah Lampenfeld, Director, External Fiscal Services  
Subject: September 2021 Edition

### **AB 167 State Budget cleanup bill**

The Legislature concluded its 2021 session on the 14<sup>th</sup> of September with a number of bills put forward for Governor Newsom to either sign or veto by October 10, 2021. Included in the bills on the Governor's desk is AB 167, the budget cleanup bill for K-12 education. While AB 167 does not modify AB 130's new independent study requirements, it does provide clarification of the state expectation surrounding the continuity of educational programs, when student cannot attend school in-person, and offers LEAs helpful options in regards to staffing and funding protections. Additionally, AB 167 provides significant changes to independent study statutes and the availability of a J-13A waiver for fiscal year 2021-22\*.

Key elements of AB 167 are:

- ✚ J-13A\*: Options for LEAs with COVID-related staff shortages
- ✚ Independent Study:
  - Apportionment for quarantine begins day one
  - Deadline for written agreements relaxed
  - Quarantines at charter schools will not trigger funding determination
  - Waivers do not alter the rules of independent study
- ✚ Staffing:
  - Substitute teachers may serve 60 days
  - Current CTC flexibilities by postponing assessments for Preliminary Credential-RICA, TPA, and CALAPA
- ✚ Expanded Learning Opportunities Program flexibilities
- ✚ Prekindergarten grant program amends
- ✚ Charter Schools Audit deadline delayed to January 31, 2022

\*Given the changes outlined in AB 167 and AB 130, attached is [SCOE Biz Bulletin No. 22-07](#) to assist LEA in understanding how and when a J-13A waiver can be filled out during the 2021-22 fiscal year.

### **Stimulus Funding Reporting Window is now open**

The reporting window is now open through 12:00 pm on October 6, 2021 for LEAs to report their July 1, 2021 through September 30, 2021 expenditures on the following funds:

CARES Act:

- ✚ General Fund (GF), Resource 7420 (**Must be fully expensed by June 30, 2021- FINAL chance to report!**)
- ✚ Coronavirus Relief Funds (CRF), Resource 3220 (**must be fully expended by May 31, 2021 – FINAL chance to report!**)

✚ ESSER I, Resource 3210

✚ GEER I, Resource 3215

CRRSA Act:

✚ ESSER II, Resource 3212

ARP Act:

✚ ESSER III, Resource 3213 and 3214

### **Brown Act Meeting Flexibilities Update!**

On June 11<sup>th</sup>, Executive Order (EO) N-08-21 rescinded the current Brown Act flexibilities issued by the EO N-29-20. This new order meant the flexibilities of N-29-20 would only extend through September 30, 2021 and LEAs would be required to transition back to the in-person public meeting requirements of the Brown Acts beginning October 1, 2021. However, on September 16<sup>th</sup> AB 361 was signed into law, which allows LEA's governing boards, flexibility in conducting public meetings virtually during a declared state of emergency (wildfires, floods, pandemic, etc.). This bill offers similar flexibilities to the expiring executive order nevertheless, does have several key differences in regards to public comment and meeting operations and is effective October 1, 2021 (after current order expires).

AB 361 authorizes, until January 1, 2024, a local agency to use teleconferencing for public meetings without complying with certain Brown Act requirement for any of the following circumstances:

- ✚ Meetings held during a proclaimed state of emergency, and state or local officials have imposed or recommended measure to promote social distancing
- ✚ Meeting is held during a proclaimed state of emergency for the purpose of determining by majority vote whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees
- ✚ Meeting is held during a proclaimed state of emergency and has determined by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees

While local legislative bodies are entitled to use the exemptions outlined in the AB 361 it's important to note then they must abide by several requirements when conducting a public meeting as outline under the Brown Act. **See [Assembly Bill 361](#) for full requirements.**

### **Elementary and Secondary School Emergency Relief (ESSER) III**

Important to remember ESSER III has three components/steps that must be completed as a condition for receipt of the fund:

- 1) Submission of Assurance (done by June 25<sup>th</sup> or soon after however no later than mid-December),
- 2) Complete and submit the Safe Return to In-Person Instruction and Continuity of Service Plan to the CDE (update every six (6) months), and
- 3) Board Adopt an Expenditure Plan **on or before October 29, 2021** (submit for review and approval within five days of adoption to the County Office of Education).
  - a. The Expenditure Plan, at a minimum, addresses students' academic, social, emotional, and mental health needs, as well as the opportunity gaps that existed before, and were exacerbated by the COVID-19 pandemic.
  - b. LEAs must engage in meaningful consultation with specified stakeholders including tribes and civil rights organization\* if these groups are present or served by the LEA.

\*To assist with the consultation requirement, SCOE's CI Directors will be providing a list of organizations and contacts to LEAs. Once available it will be forwarded to LEAs.

Please submit Expenditures Plans to your Fiscal Advisor and/CI Director and reach out if you have any questions.

### **U.S. Department approves California's waiver request**

On September 10, 2021 the U.S. Department of Education approved California's waiver request for Title I, Part A and General Education Provisions Act flexibilities. This approval extends Fiscal Year (FY) 2020 Title I, Part A carryover limitations and the period of availability of FY 2019 federal funds until September 30, 2022. See attached formal approval [letter](#) for more details.

### **2021-22 Charter School 20 Day Report is now available**

The California Department of Education (CDE) 2021–22 Charter School 20 Day Attendance Report (Charter 20 Day) is available on the CDE's [website](#). While charter schools are on the same funding cycle as other local educational agencies, per Education Code Section 47652, newly operational and expanding charter schools are eligible to receive funding through the Charter School Special Advance apportionment. Newly operational charter schools are defined as those in their first year of operation that commenced instruction by September 30, 2021, and expanding charter schools are those that are expanding to add one or more grade levels in 2021–22.

To be eligible for funding, new charter schools must have submitted a Pupil Estimates for New and Significantly Expanding Charter Schools (PENSEC) report, as well as the Charter 20 Day. Expanding charter schools can submit a Charter 20 Day even if they did not submit a PENSEC report.

### **2020-21 Books Closed, What's Next?**

Each LEA's Unaudited Actuals should have been board approved on or before September 15 and submitted to SCOE. It's now time to begin reviewing your budget and assumptions for 2021-22. It's never too early to start reviewing, updating and compiling changes for First Interim.

- Revenue updates – one-time revenue review and adjustments
- LCFF calculations – with updated enrollment from start of school, unduplicated student count updates and average daily attendance calculations
- Basic aid calculations – recalculating projected property taxes using prior-year actuals as a starting point (P-1 2021-22 property tax estimates will be sent out in early November)
- Personnel costs - now that school has started and first payrolls have run, estimated costs will be more concrete, positions are now filled, step and column can be re-calculated
- Negotiations – cost of 1% can be calculated with more accuracy
- Health and welfare costs – project based in unaudited actuals as a starting point with actual premium increase/change and open enrollment information

## **Reminders**

### **2<sup>nd</sup> Reminder: Instructional Materials Public Hearing Requirements for Fiscal Year 2021-22**

Education Code Section 60119 requires that local governing boards hold an annual public hearing **on or before the end of the eighth week from the first day pupils attend classes** and adopt a [resolution](#) stating whether each pupil in the LEA has sufficient textbooks or instructional materials. This public hearing and resolution are required annually. LEAs should keep the resolution on file for the LEA's annual audit.

For more detailed information go to <http://www.cde.ca.gov/ci/cr/cf/> and click on "Instructional Materials Frequently Asked Questions" for direct responses to realistic/practical questions. **The resolution sample can be found at the CDE web page by clicking on the link embedded in FAQ #43.**

### **Fiscal Reports by School Services of California**

School Services does an excellent job of providing explanations to current topics. If you are a member of School Services of California you can also see these reports by logging in to view on their web page or subscribe to their email services. Attached for your convenience are:

- Help! I've Quarantined and I Can't Get (My ADA) Up!
- Ask SSC...How Do I Protect ADA When Students Quarantine?
- Budget Trailer Bill Reinforces Independent Study for Quarantine
- Staffing Challenges Exacerbated by Rolling Quarantines
- Protection for Charter Schools Offering Independent Study for Quarantined Students

### **Dates to Remember:**

09/26/2021	Scheduled Network Maintenance 8:00 am – 12:00 pm
09/29/2021	Escape HFA Leaves Setup Workshop 9:00 am – 12:00 pm <a href="#">Click here to register</a>
10/06/2021	2021-22 Census Day (used for CalPads Fall 1)
10/06/2021	CalPads Fall 1 Training 9:30 am – 12:00 pm
10/13/2021	Aeries in CalPads Fall 1 Training 9:30 am – 12:00 pm
10/21/2021	2021-22 Interim Reporting Workshop
10/21/2021	DBUG
11/01/2021	Low-Performing Students Block Grant Report No. 2 due to CDE

### **NOTE:**

- Want to add something to a DBUG Agenda? Want a topic added to SCOE Biz? Contact DBUG Chair Christina Menicucci
- Documents presented at [DBUG](#) found posted at <http://www.scoe.org/pub/htdocs/fiscal-dbug.html>
- [Workshop manuals](#) and [Fiscal Services/IT forms](#) may be found at <http://www.scoe.org/escape> under the heading of Resources on the left side of the page.

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September 23, 2021

To: District and Charter Business Services  
From: Sarah Lampenfeld, Director, External Fiscal Services  
Subject: J-13A Waiver: Request for Allowance of Attendance Due to Emergency Conditions

**A Form J-13A is used to obtain approval of attendance and instructional time credit under the following conditions:**

- One or more schools were closed
- One or more schools were kept open but experience a material decrease in attendance
- When attendance records have been lost or destroyed

**Typical qualifying events for a J-13A request (not inclusive list)**

- Wildfires
- Epidemic substantiated by local health departments
- Power outages
  - The CDE provides guidance for both air quality and PSPS school closure consideration on their website to assist with decision making.
- Unanticipated inclement weather

**When should the LEA close school?**

- It is a local decision as to whether a school should close due to an emergency. If appropriate, the LEA should consult with local government agencies such as local law enforcement or the local public health department to help decide.

**Material decrease requests relating to current epidemic:**

- LEAs that experience a material decrease in ADA due to emergencies, including health epidemic, can file a J-13A request
  - The 10% threshold does not apply under declared states of emergency such as the COVID-19 emergency we are currently in.

**NEW: Effective September 1, 2021 AB 130 modified the requirements for filing J-13A request when they experience a material decrease in ADA:**

For events that occur **after September 1, 2021**, LEAs will be required to include certification in their affidavits submitted to the State Superintendent that they have a plan to offer independent study. The plan shall comply with all the following:

- Applies to any student impacted by a closure for any reason identified in EC 46392 within ten days of a closure, including, but not limited to, an epidemic
- Requires reopening in person as soon as possible once allowable by a city or county health officer
- Includes information regarding establishing master agreements in a reasonable amount of time
  - Note: new rule is after September 1, 2021 therefore, if an LEA experiences a material decrease **prior** to September 1<sup>st</sup> the rule does not apply. If material decrease occurs before September 1<sup>st</sup> and independent study is not an option see *material decrease requests relating to current epidemic*

**NEW: Assembly Bill 167, the Budget clean-up bill for K-12 education:**

- Offering mostly helpful tools to LEAs, particularly around staffing and funding protections.
- The measure did not, however, modify AB130's new independent study requirements.

1. J-13A: An option for LEAs with COVID-related staff shortages.

The Education Code allows the Superintendent of Public Instruction (SPI) to grant apportionment credit to an LEA in cases of school closures due to extraordinary conditions or material decreases in attendance due to emergencies, like fires and floods. (Sections 41422, 46392.) These requests occur through a Form J-13A (Section 46393; see also [CDE FAQs](#)).

For **school closures** due to the impacts of Covid-19, AB 167 denies recovery of ADA credit. For **material decreases in attendance** due to the quarantine of pupils pursuant to public health guidance, AB 167 denies recovery of ADA.

Notwithstanding those two sections, the SPI may grant a J-13A request if ALL the following conditions are met (as demonstrated by the appropriate affidavits):

- The request is for ADA lost between September 1, 2021, to June 30, 2022.
- The school closure or material decrease was due to COVID-19 related staffing shortages.
- The LEA is "unable to provide in person instruction due to staffing shortages," certificated or classified employees, "as a result of staff quarantine due to exposure to, or infection with, COVID-19 pursuant to local or state public health guidance."
- The LEA has "exhausted all options for obtaining staff coverage and has consulted with their county office of education and the Superintendent [of Public Instruction] in determining that staffing needs cannot be met through any option."
- For school closures only, the ADA recovery applies only to "instructional days and minutes that were scheduled for in-person instruction," as demonstrated by a calendar approved by the governing body before the closure.
- For school closures only, a state or local public health or safety order required the closure. (Sections 41422, 46392, 46393.)

Finally, for any J-13A **after September 1, 2021**, filed for any purpose, the LEA must certify it has "a plan for which independent study will be offered" to any pupil impacted by the school

closure or material decrease in attendance within 10 days. (Section 46393(a).) Note: the criterion is for a plan, not implementation of that plan, though the legislative intent is clearly to provide the greatest level of instruction under the circumstances.

As under existing law, independent study provided to a pupil for less than 15 cumulative school days is not required to include tiered reengagement strategies, live instruction and synchronous minimums, and a five-day return to the classroom upon request. (Section 46393(b), exempting the requirements of Section 51747(d)-(f).)

LEAs that have a waiver of the requirement to offer independent study must nevertheless certify their plan to offer independent study for purposes of a J-13A. But they are exempt from the three requirements above. (Section 46393(b).)

## **2. Independent study: Apportionment for quarantine begins day one.**

LEAs may receive apportionment for students participating in independent study because of COVID-19 related quarantine beginning on the first day of quarantine. (Section 51747(a)(6).)

## **3. Independent study: Deadline for written agreements relaxed.**

For the 2021–22 school year only, written agreements must be signed no later than 30 days after the first day of instruction in an independent study program or (as added in AB 167 at Section 51747(g)) by October 15, whichever date comes later. However, it is important to note that all other IS requirements (except as otherwise specified relevant to the duration of IS) must be met upon commencement of instruction.

## **4. Independent study: Quarantines at charter schools will not trigger funding determination.**

Classroom-based charter schools providing independent study to students who are unable to attend classes in person because of a COVID-19-related quarantine are not required to count these students as nonclassroom-based charter school ADA and are not required to file for a funding determination with the State Board of Education. (Section 51747(j).)

## **5. Independent study: Waivers do not alter the rules of independent study.**

AB 130 required all school districts and county offices of education to offer independent study during the 2021-22 school year, unless a waiver was granted by the county superintendent or SPI. (Section 51745.) Nevertheless, the only two ways to generate ADA funding are seat-based instruction or through independent study.

A waiver does not relax any of the Education Code's requirements for independent study. Nor do different rules apply for students on quarantine or "short-term" independent study (less than 15 cumulative school days) based on the LEA's waiver status. To receive ADA funding for non-seat-based instruction, the only option is independent study.

The only exception to this general rule is that an LEA seeking a J-13A is exempt from the requirements of subdivisions (d), (e), and (f) of Section 51747. (Section 46393(b).)

**What to submit with a J-13A Waiver:**

LEAs must submit a copy of their plan to offer independent study along with their affidavit, J-13A waiver request (if applicable), and school calendar. Plans do not need to comply with new independent study requirements for:

- Live interaction, by grade level
- Synchronous instruction, by grade level
- Tiered reengagement
- Transition to in-person instruction within five instructional days upon request

**When to submit a J-13A:**

- The local educational agency (LEA) may file a Form J-13A school closure request if the LEA had to close school due to an emergency and was not able to make up the instructional days and/or minutes.
- Once the emergency is over the LEA should submit the J-13A

**For more information about J-13A Waivers for 2021-22:**

[2021–22 Form J-13A - Frequently Asked Questions - Principal Apportionment \(CA Dept of Education\)](#)

Sources: CDE & CCSESA



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 10, 2021

The Honorable Tony Thurmond  
Superintendent of Public Instruction  
California Department of Education  
1430 N Street, Suite 5602  
Sacramento, CA 95814-5901

The Honorable Linda Darling-Hammond  
State Board President  
California State Board of Education  
1430 N Street, Room 5111  
Sacramento, CA 95814

Dear Superintendent Thurmond and Dr. Darling-Hammond:

I am writing in response to California's request on August 18, 2021, that the U.S. Department of Education (Department) waive, pursuant to section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), the requirements enumerated below on behalf of California and its subgrantees (e.g., local educational agencies (LEAs)) as a result of the ongoing challenges related to the novel Coronavirus Disease 2019 (COVID-19):

- Carryover limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) for Federal fiscal year (FY) 2020 Title I, Part A funds (i.e., the Title I, Part A funds that will become carryover funds on October 1, 2021): to waive the requirement that limits an SEA's ability to grant to its LEAs a waiver of the 15 percent Title I, Part A carryover limitation in section 1127(a) to once every three years.
- Period of availability of funds in section 421(b) of the General Education Provisions Act (GEPA): to extend the period of availability of FY 2019 funds for programs in which California participates under its approved consolidated State plan until September 30, 2022. The programs are:
  - Title I, Part A of the ESEA (Improving Basic Programs Operated by LEAs), including the portions of the SEA's Title I, Part A award used to carry out section 1003 school improvement, section 1003A direct student services, if applicable, and Title I, Part D, Subpart 2.
  - Title I, Part B of the ESEA (State Assessment Formula Grants).
  - Title I, Part D, Subpart 1 of the ESEA (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At Risk).
  - Title II, Part A of the ESEA (Supporting Effective Instruction).

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- Title III, Part A of the ESEA (English Language Acquisition, Language Enhancement, and Academic Achievement).
- Title IV, Part A of the ESEA (Student Support and Academic Enrichment Grants).
- Title IV, Part B of the ESEA (21st Century Community Learning Centers).
- Title V, Part B, Subpart 2 of the ESEA (Rural and Low-Income School Program).
- McKinney-Vento Education for Homeless Children and Youth Program.

After reviewing California's request, I am pleased to approve a waiver of the requirements listed above.

As part of this waiver, California assured that:

- The State will use, and ensure that its subgrantees use, funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.
- The State will work to mitigate, and ensure that its subgrantees work to mitigate, negative effects, if any, that may occur as a result of the requested waivers.
- The State provided the public and all LEAs in the State with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the State website.

I continue to thank you for the work you are doing to help support our students in your State under these extraordinary circumstances. The Department is committed to supporting you and your subgrantees during this challenging time. If you have any questions about this waiver, please contact my staff at [OESE.TitleI-a@ed.gov](mailto:OESE.TitleI-a@ed.gov).

Sincerely,



Ian Rosenblum  
Deputy Assistant Secretary for Policy and Programs  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Joseph Saenz, California Department of Education

[Click Here for COVID-19 Related Resources](#)

## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

# Help! I've Quarantined and I Can't Get (My ADA) Up!

 [BY PATTI F. HERRERA, EDD](#)

 [BY MATT PHILLIPS, CPA](#)

Copyright 2021 School Services of California, Inc.

posted August 25, 2021

In recent weeks and even days, we at School Services of California Inc. (SSC) have been contacted by local educational agencies (LEAs) who have commenced their 2021–22 school year and have already had cases of COVID-19 infections and exposures, compelling them to send students and staff into quarantine. The most common fiscal question we have been receiving is: How do I protect my average daily attendance (ADA) for the period that students are in quarantine?

SSC posted an article about an option for generating ADA under quarantine prospectively (see “[Ask SSC . . . How Do I Protect ADA When Students Quarantine?](#)” in the August 2021 *Fiscal Report*), but for LEAs that have already quarantined students—some by the hundreds—retroactively implementing an independent study program for them may not be viable, even with the 30-day window in [Education Code Section \(EC §\) 5174.7\(g\)\(9\)\(F\)](#) to collect agreements after the first instructional day. So, what can an LEA do in this circumstance?

There are two salient laws that provide a path to help an LEA preserve ADA and funding under this circumstance. First, [EC § 46392](#) authorizes LEAs that experience a material decrease in ADA due to emergencies, including health epidemics, to file requests for protection with the State Superintendent of Public Instruction (SSPI)—we refer commonly to this provision as the J-13A waiver. Normally, LEAs must experience at least a 10% loss in ADA in order to qualify for a J-13A waiver; however, during declared states of emergency like the COVID-19 emergency we are currently under, this threshold does not apply. Thus, an LEA may apply for a J-13A waiver even when only partial classrooms and/or partial school ADA is impacted.

The second salient law is found in [EC § 46393](#), which established a new requirement for LEAs to have a plan to offer independent study to students impacted by an emergency. The important provision in this section for LEAs that have already quarantined students and have experienced a material decrease in ADA as a result, is that the new independent study requirement only applies to emergency events occurring *after* September 1, 2021, and for which J-13A waiver requests are filed.

Therefore, LEAs for which the 2021–22 school year has already begun and that have had to quarantine students infected by or exposed to COVID-19 may file J-13A waiver requests with the SSPI without a plan to offer independent study. If approved, the waiver will protect LEAs from any material loss in ADA and funding.

It is worth reiterating that this option exists only for emergencies occurring *before* September 2, 2021. On or after September 2, LEAs will be required to include in their J-13A affidavits a plan to offer independent study for impacted students. It is also worth noting that the plan to offer independent study to impacted students is not subject to [EC § 5174.7\(d\) – \(f\)](#), which includes opportunities for students to participate in live interaction or synchronous instruction, tiered reengagement or intervention strategies, and plans to transition students back to in-person instruction.

[Click Here for COVID-19 Related Resources](#)

## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

### Ask SSC . . . How Do I Protect ADA When Students Quarantine?

 [BY PATTI F. HERRERA, EDD](#)

 [BY MATT PHILLIPS, CPA](#)

Copyright 2021 School Services of California, Inc.

posted August 20, 2021

**Q:** We are already experiencing mass quarantines in the first weeks of school, and I'm fearful that our average daily attendance (ADA) will be significantly impacted. How do I protect the ADA when students quarantine?

**A:** The 2021–22 year presents an opportunity to reengage students after nearly a year of distance learning and a summer recess. However, the COVID-19 Delta variant is causing many local educational agencies (LEAs) to address growing infection and exposure rates among students and staff, driving increases in quarantine cases. Before responding to your question about protecting ADA of affected students, it is important to remind LEAs of the current health guidance for schools from the California Department of Public Health (CDPH) relative to modified quarantine requirements, which will help to limit the number of students subject to quarantine if faithfully implemented.

#### Quarantine for Fully Vaccinated Students

CDPH guidance allows fully vaccinated students exposed to COVID-19 to be exempted from quarantine and testing if they are asymptomatic. However, guidance requires students to wear masks, or face coverings if eligible, indoors while encouraging testing if students begin to experience COVID-19 symptoms. To access quarantine guidance for fully vaccinated students, click [here](#).

#### Quarantine for Unvaccinated Students

CDPH guidance also allows unvaccinated students to undergo modified quarantine under certain conditions. Specifically, students who are exposed to COVID-19 when both parties were wearing masks and who were in close contact with a COVID-19 case (exposed for more than 15 minutes over a 24-hour period and within 0–6 feet indoors), may continue to attend school in-person if they:

- Are asymptomatic
- Continue to appropriately mask, as required

- Undergo at least twice weekly COVID-19 testing during the 10-day quarantine period
- Continue to quarantine for all extracurricular activities at school

Health guidance for unvaccinated students who were exposed when one or both parties were not wearing a mask differs from the quarantine guidance above. LEAs are advised to familiarize themselves with these important differences by reviewing the CDPH guidance found [here](#) (see numbers 8 and 9 under “Safety Measures for K–12 Schools”).

### Using Short-Term Independent Study for Quarantined Students

Now, in response to your question, in the event that a student must quarantine to comply with the CDPH guidance, an LEA should work to ensure continuity of educational services to students. To do this, LEAs may enroll a quarantined student in short-term independent study as provided for in law. Not only does this approach ensure continued instruction and learning, it also provides the opportunity to preserve attendance for students during a quarantine period.

Short-term independent study is distinct from students enrolled in independent study for more than 15 school days in a school year (or long-term independent study) in some important ways, including that short-term independent study programs are not required to:

- Provide opportunities for live interaction and synchronous instruction
- Have a plan for tiered reengagement
- Swiftly transition students to in-person instruction upon request

Although these are important programmatic distinctions, law maintains the requirement for LEAs to generate ADA for students enrolled in short-term independent study through the time value of student work as evaluated by a certificated teacher.

Furthermore, law continues to require that signed master agreements be in place with all the requisite components before ADA can be claimed for a student participating in short-term independent study—no different from prior law nor long-term independent study. Obtaining a signed master agreement in the face of a quarantine is a daunting task no matter how you look at it, but the failure to obtain master agreements could result in lost funding even if the student is completing the appropriate work while quarantined since those agreements are required to be in place before ADA can be claimed. The impact will affect charter schools and county offices of education immediately because those LEAs do not benefit from the ability to use prior-year ADA for funding purposes. For school districts, the inability to accurately capture ADA in the current year may negatively impact their ADA in fiscal year 2022–23.

To avoid ADA losses because of the absence or delay in obtaining compliant master agreements, LEAs should consider obtaining signed master agreements as close to the beginning of school as possible and maintaining those master agreements on file—similar to the emergency cards or free or reduced-price meals applications. In the event that a student must quarantine, the signed master agreement is already in place, and the student

can continue to complete and submit assignments during quarantine. If work is returned in accordance with the master agreement, and the time value of work is sufficient, the LEA can record ADA for the period the student was quarantined.

At School Services of California Inc., we recognize that this is an immense lift in the face of reopening schools, ensuring appropriate staffing, and maintaining the highest health and safety standards for students and staff. Each LEA should consider its own tolerance for lost ADA, and the prevalence of quarantine as a result of the COVID-19 Delta variant when deciding whether to collect master agreements ahead of time, or on an as-needed basis. Our hope is that every LEA is able to provide a continuous educational experience for all students while avoiding fiscal penalties because of missing paperwork.

[Click Here for COVID-19 Related Resources](#)

## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

# Budget Trailer Bill Reinforces Independent Study for Quarantine

 [BY PATTI F. HERRERA, EDD](#)

 [BY MATT PHILLIPS, CPA](#)

Copyright 2021 School Services of California, Inc.

posted September 7, 2021

On Sunday, September 5, 2021, the Legislature amended Senate Bill (SB) 167—a 2021–22 budget trailer bill that makes technical changes to Assembly Bill 130 enacted earlier this summer. Among the significant changes are changes to independent study statutes and availability of a J-13A waiver.

### Independent Study

The common thread weaving through SB 167 with respect to students subject to COVID-19 quarantines is that the state expects local educational agencies (LEAs) to maintain continuity of their educational programs while they cannot attend school in person. To buttress this expectation, SB 167 makes several clarifying and a few substantive changes to independent study, which we summarize.

Foremost, SB 167 clarifies that LEAs can receive apportionment through independent study for students that are subject to quarantine, and that for the 2021–22 school year only signed written agreements can be collected within 30 days after the first day of independent study or by October 15, whichever occurs later. This clarification fortifies earlier guidance the School Services of California, Inc. team provided (see “[Ask SSC . . . How Do I Protect ADA When Students Quarantine?](#)” and “[Ask SSC . . . Executing Written Agreements for Quarantined Students](#)” in the August 2021 *Fiscal Report*).

More substantive changes to independent study require that teachers evaluating student assignments and other work products must be LEA employees, as well as applying comprehensive program audit requirements to course-based independent study along with the requirement to notify parents of their student’s educational options for this school year and their right to a conference with the LEA.

But one of the more notable amendments in SB 167 relates to the conditions that would lead an LEA to identifying an independent study student for tiered reengagement. Specifically, SB 167 would include among the criteria for determining when a student requires intervention are:

- In lieu of lacking attendance for three school days (or 60% of instructional days) in a school week, when students do not meet 10% of the required instructional time over four continuous weeks would be subject to tiered reengagement.
- When a student does not participate in live interaction or synchronous instruction for the greater of more than three school days or 60% of the scheduled days of synchronous instruction in a school month.

### **J-13A Protection for Material Losses in Attendance Due to Quarantine**

SB 167 would also prohibit LEAs from filing J-13A waiver requests from September 2, 2021, to June 30, 2022, for material losses in average daily attendance (ADA) or school closures due to student quarantines. LEAs may file J-13A requests for quarantined students with special needs whose individualized educational program does not provide for independent study and for students attending community schools.

In addition to this limited authority, the bill would offer some protection against ADA losses due to COVID-19 staffing shortages during the same time period as long as LEAs satisfy the following conditions to the State Superintendent of Public Instruction (SSPI) by affidavit of its governing board members:

- Shortages are because of staff quarantines as a result of exposure to or infection with COVID-19.
- The LEA has exhausted all staffing options, including using all existing staffing options, and for certificated positions substitute teacher options, and has consulted with their county office of education and the SSPI to determine that their staffing needs cannot be met.

For ADA losses due to student quarantines through September 1 (see “[Help! I’ve Quarantined and I Can’t Get \(My ADA\) Up!](#)” in the August 2021 *Fiscal Report*).

SB 167 also proposes changes to J-13A requests for emergency events occurring after September 1, 2021, such as fires and earthquakes, clarifying that affidavits must be accompanied by a plan to offer independent study to all impacted students within ten days after the first day of the qualifying event. If an LEA obtained a waiver from the mandate to offer independent study for the 2021–22 school year, the plan submitted along with the J-13A request does not need to include live interaction, synchronous instruction, tiered reengagement, and a plan to transition students back to in-person instruction. In essence, LEAs with an approved waiver must offer limited independent study to students impacted by the emergency.

### **Minimum Instructional Days and Instructional Minutes**

Finally, SB 167 clarifies that LEAs are not exempt from meeting annual minimum instructional days and minutes between September 1, 2021, and June 30, 2022, except in narrow circumstances. Specifically, SB 167 would bar LEAs from receiving credit for lost instructional days and minutes that were scheduled for in-

person instruction for COVID-19 reasons unless it offered independent study to all affected students and certified the offering to the SSPI.

Similar to the J-13A processes to protect against funding losses due to COVID-19 staffing shortages, SB 167 would authorize LEAs to receive the same apportionment for school closures as a result of shortages stemming from staff quarantines as long as they have exhausted all staffing options.

### **What's Next?**

SB 167 must still be approved by the Legislature, which adjourns for the 2021 legislative session at midnight on Friday, September 10, 2021, before it can be presented to Governor Gavin Newsom for action. Given the expedited timeframe, it is not likely that SB 167 will be significantly amended, so we expect that the changes in the bill will become law in the next few weeks.

[Click Here for COVID-19 Related Resources](#)

## FISCAL REPORT

*PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS*

### Staffing Challenges Exacerbated by Rolling Quarantines

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 [BY SUZANNE SPECK](#)

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As the Delta variant surges across California, more and more families are reconsidering in-person instruction for their school-aged children, creating an altogether different kind of COVID-19 surge—a surge in demand for independent study. We have heard from local educational agencies (LEAs) across the state that their independent study waiting lists have increased exponentially since the start of the school year, spawning acute teacher staffing needs, especially in LEAs where staffing levels are already stressed.

The surge in requests for independent study shifts program needs from in-person instruction in a traditional classroom setting to an alternative learning environment, the timing of which is compounded by existing staffing struggles. Restrictive certificated collective bargaining agreement language related to voluntary and involuntary transfers and reassignments can be a barrier to making needed adjustments in staffing once the instructional year has begun. Additionally, the certificated layoff statute, which only permits decreases in staffing levels during prescribed timelines, requires LEAs to contemplate involuntary reassignments which can be difficult, if not impossible, to execute due to restrictions in the collective bargaining agreement or the lack of appropriately credentialed teachers. Preexisting staffing shortages are like salt to the wound of many LEAs who are facing the growing demand for independent study and reduced enrollment at school sites.

A strategic comprehensive approach is needed to address ongoing student needs, to effectively manage changes in classroom configurations, and that are the least disruptive to student learning. A strategic response requires communication and collaboration between human resources (HR), business, and those departments and/or individuals with student enrollment responsibilities. A strategic approach should contemplate the following key elements:

#### **Frequently Monitor Enrollment**

Enrollment fluctuations and trends should be shared with HR, so an effective response, in compliance with the certificated collective bargaining agreement, can be formulated. In addition, HR is responsible for certificated assignment monitoring, which requires forecasting staffing needs to build a responsive recruitment plan if hiring additional teachers is needed.

## **Review Class Size Language in the Certificated Collective Bargaining Agreement**

Some LEAs may be overstaffed due to declining enrollment trends, which creates opportunity to adjust classroom staffing levels to meet high Independent Study demands. Review class sizes prescribed in the collective bargaining agreement and create scenarios which utilize staff for independent study in current assignments with low student numbers. This approach requires thoughtful consideration to ensure that disruptions to instructional programs are minimized and that staff are appropriately assigned based on their credentials and any supplemental or emergency authorizations. Also keep in mind that a temporary adjustment to existing class sizes may be needed to ensure compliance with independent study staffing ratios which must be tracked and reported to the California Department of Education and come with apportionment penalties if not maintained. More information on the independent study ratio calculations can be found [here](#).

## **Review Involuntary Transfers/Reassignments Language in the Certificated Collective Bargaining Agreement**

Working conditions for certificated employees may be impacted by the demand for independent study, and these working conditions are commonly covered in the collective bargaining agreement. Review the collective bargaining agreement to determine if there is existing transfer and reassignment language which addresses midyear staffing changes. These provisions may authorize the LEA to execute involuntary transfers/reassignments for declining enrollment, changes in the instructional program, and/or reduction in categorical funding and prescribe the procedures for doing so. If your collective bargaining agreement is silent on involuntary staffing changes or lacks details which align with the challenges; review your past practice, if any, and if needed, engage with your labor partners to discuss temporary language that allows you maximum staffing flexibility and memorialized your agreement in a memorandum of understanding (MOU).

## **Assess Your Recruitment Needs**

Recruitment of additional teachers to assign to independent study is also an option, particularly if restrictive collective bargaining agreement language prevents you from transferring or reassigning teachers to the independent study program. However, in consideration of the current statewide teacher shortage, the outcome is beyond an LEA's control, and may delay resolution of the immediate and acute instructional needs of the LEA.

In closing, consider your existing flexibility and any available resources and/or tools first. Work with your labor partners to make temporary changes to existing collective bargaining agreement language that will increase your flexibility during this time of unprecedented need and ensure you are able to meet your independent study staffing ratios. Memorialize these agreements in an MOU or make permanent changes to the collective bargaining agreement that increase your flexibility going forward, if possible. Finally, as the sand continues to shift under our feet, LEAs will need to be nimble when it comes to staffing and changes to the instructional program. Do all that you can to avoid foreclosing staffing flexibility in the future as COVID-

19, and particularly the Delta variant, will undoubtedly bring urgent and unexpected changes in the days and months ahead.

[Click Here for COVID-19 Related Resources](#)

## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

### Protection for Charter Schools Offering Independent Study for Quarantined Students



BY BRIANNA GARCÍA

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The 2021–22 State Budget’s education budget cleanup trailer bill was released last week (see “[Education Budget Cleanup Bill](#)” in the September 2021 *Fiscal Report*). Two versions were introduced and in print—one from the Assembly and one from the Senate—Senate Bill (SB) 167 and Assembly Bill (AB) 167, respectively. However, at the conclusion of the hearings, only one remained standing and was sent to Governor Gavin Newsom for his signature—AB 167.

For those that decided a good way to spend an evening was to read both bills, you noticed there were some differences. As it pertains to this article, I ask you to focus on the independent study provisions. Changes were made clarifying that local educational agencies can receive apportionment for students that are subject to quarantine if they take part in independent study (see “[Budget Trailer Bill Reinforces Independent Study for Quarantine](#)” in the September 2021 *Fiscal Report*).

AB 167, however, includes additional language related to charter schools that is not included in SB 167. As it pertains to students enrolled in independent study due to quarantine, AB 167 provides additional protection for charter schools. Specifically, for the 2021–22 fiscal year, classroom-based charter schools that provide independent study for quarantined students would have this average daily attendance (ADA) excluded from the threshold utilized to classify a charter school as nonclassroom-based and subject to a nonclassroom-based funding determination.

For background purposes, if more than 20% of a charter school’s ADA is generated through nonclassroom-based instruction, it must adhere to rules governing nonclassroom-based instruction/independent study and submit a funding determination request in order to receive Local Control Funding Formula funding. Otherwise, attendance is disallowed. The funding level received under a funding determination is dependent on the percentage of the charter school’s budget spent on instruction as well as the student-teacher ratio. To get 100% funding, the charter school must spend at least 80% of its revenues on instruction or instruction-related services and at least 40% of this amount must be spent on certificated salaries and benefits. In addition, the charter school cannot exceed a 25:1 student-teacher ratio or the ratio for non-independent

study programs operated by the largest unified school district in the county or counties in which the charter school operates. If the charter school does not meet these requirements, then its funding is reduced by set percentages.

What AB 167 does is protect classroom-based charter schools who are providing independent study—above the 20% threshold—strictly due to students quarantined because of COVID-19.