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Dec. 17, 2020

Dear Superintendents and School Leaders,

As we head into the winter break, there are two pressing and unresolved questions on school reopening that I would like to call your attention to:

1. What does it mean for a school to be “open” in accordance with the [July 17 reopening framework](#)?
2. What is the process to obtain authorization from the local public health officer for a reopened school to expand phased reopening while the county is in Tier 1 (purple)?

The California Department of Public Health (CDPH) addressed the question of what it means for a school to be “open” in an update on Oct. 20, pointing to its [Aug. 3 FAQ](#):

*The school reopening framework set the rules for when “[s]chools and school districts may reopen for in-person instruction.” The term “open” or “reopen,” as used in the framework, refers to operations that are permitted only if the county satisfies the eligibility requirements for schools to “open” or “reopen” (i.e., red tier for 14+ days). This is in contrast to activities permitted under the Cohorting Guidance even for schools that are not permitted to reopen under the July 17 school reopening framework. **Schools that were operating only in the manner permitted under the Cohorting Guidance are therefore not “open” under the July 17 framework** (emphasis added). For example, a school serving 10 students for in-person instruction under the cohorting guidance is not “open” for in-person instruction, since such operations are permitted regardless of the school reopening framework.*

The County of San Diego has offered a local standard that appears to be inconsistent with the position taken by CDPH:

*The litmus test we’re using is that if a school is providing in-person instruction for a portion of its student body, and that instruction is provided by a certified teacher and based on a formal curriculum, its in-person instruction. The school can continue to expand its in-person instruction via its phased reopening plan.*

The San Diego County Office of Education (SDCOE) has made clear that the lack of consistency between CDPH and the county puts superintendents and school boards in the difficult position of considering both answers and weighing their implications, while attempting to chart a course forward for their schools. The county is aware that their position is in dispute and has advised us that they are attempting to clarify the standard on reopening with CDPH.

On continuing the implementation of phased reopening while in Tier 1 (purple), CDPH included the following in the Aug. 3 FAQ:

*If a school was implementing a phased re-opening (e.g., only opened grades 9-10 for in-person instruction with set plans to phase in grades 11 and 12) while the county was in the Red Tier, the school site may continue their phase re-opening when the county reverts back to the Purple Tier, **if authorized by Local Health Officer** (emphasis added). This is only applicable to individual school sites. If a district has a phased reopening of their schools, the schools in that district that did not open for in person instruction may not re-open until the county is back in the Red Tier for 2 weeks.*

SDCOE has asked the County of San Diego to describe the process for school leaders to use to obtain this authorization and to describe how such requests would be evaluated.

Given the lack of clarity on these questions, school leaders should proceed with caution when evaluating the reopening status of their schools and making plans to expand. SDCOE's position is that:

- In the absence of further guidance from CDPH, the county's standard for what it means to be "open" is hard to reconcile with what CDPH has described. Whether CDPH says more or not, we are accountable to the standard set by the state.
- School leaders planning to expand the phased reopening of their schools while the county is in the purple tier should work closely with their legal counsel to ensure that they are properly authorized to proceed as planned.

We are continuing our attempts to clarify these questions and will update you as new information becomes available.

#### **School Employee Testing Site Update**

The County of San Diego has informed SDCOE that, due to testing needs across the region, it will need to repurpose the school employee-only testing sites at the Del Mar Fairgrounds and in El Cajon to make them available to the community. They have not identified a date for the switch but expect it will be soon.

We remain grateful for the support of the San Diego County Board of Supervisors, which has allocated CARES Act funding to support testing school employees for COVID-19. As you know, CDPH recommends school districts and schools test all staff members over two months, where 25% of staff members are tested every two weeks, or 50% every month to rotate testing of all employees over time.

Thank you for your continued efforts to support San Diego County's children during these uncertain times. Please don't hesitate to get in touch if I can be of assistance.

Sincerely,  
Paul

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