

# Memorandum of Understanding Between the Berkeley Unified School District and the Berkeley Federation of Teachers

October 21, 2020

## A. Health and Safety Guidelines

1. Public Health Authorities: The Parties will follow health and safety guidelines established by the Centers for Disease Control ("CDC"), the California Department of Public Health ("CDPH"), Alameda County Department of Public Health ("County"), with final guidance by the City of Berkeley Department of Public Health ("CoB") and Alameda County Office of Education ("ACOE") for safely opening schools.
  - a. The District will provide unit members with clear and timely communications, policies, and procedures regarding health and safety guidelines that are consistent for all school sites and central office facilities for the circumstances.
2. Training: To help prevent the spread of COVID-19, prior to any school or central office reopening, the District will train its employees in appropriate measures (public health measures, hygiene, sanitation, etc.) to prevent the spread of the virus and will ensure its facilities (school site or central office) have the necessary District-funded supplies for preventative sanitation measures.
  - a. The District will provide training to staff on proper EPE usage, social distancing protocols, and handwashing/hand sanitizing procedures within the first workday of the employee's return to on-site work.
3. Essential Protective Equipment: The District shall provide all unit members any District-funded Essential Protective Equipment ("EPE") necessary to complete their work assignment. The District shall provide sufficient protective equipment to comply with CDPH guidance for staff appropriate for each classification or duty, relevant to Cal/OSHA requirements, including but not limited to as follows:
  - a. For all certificated staff: Face coverings (as defined by Public Health)
  - b. Additionally, for staff working with students five years of age and under and mod/severe special education students in person, and for any certificated staff member upon request: face shields, disposable gloves, and gowns will be provided. Physical barriers and bite prevention gear will be provided when appropriate.
  - c. Respiratory protection is important for unit members caring for individuals who present COVID-19 like symptoms and are in an isolation space pending travel home. Such unit members shall be provided N95 respirator masks if N95s can be obtained. Disposable face masks, face shields, disposable gloves, gowns, and physical barriers shall be provided. A portable air purifier shall be provided for these isolation locations.
  - d. Face shields shall be provided to BFT members who request it.

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- e. The District shall purchase a sufficient number of no-touch thermal scan thermometers for symptom screenings.
  - f. Nothing in this section precludes the employee and their supervisor from engaging in a discussion, up to and including the interactive process, regarding additional EPE.
  - g. The District shall require the use of face coverings for all persons who enter District facilities.
  - h. Face coverings are not required for individuals working in private offices/classrooms with a closed door when alone.
  - i. All staff and all students over the age of 5 will be expected to wear masks unless they have a documented reason why this is not possible, and that BUSD provide masks for students who do not have them. Students who refuse to wear masks may not be able to participate in 'in-person' school activities; the district will develop procedures for these students, including communication with parents. Students below the age of 5 will be encouraged to wear masks when indoors.
4. Visitors: To help prevent the spread of COVID-19, no visitors will be permitted on the school site or in a central office facility unless they are considered an essential visitor.
- a. No adults other than District staff will be allowed in classrooms, unless it is an emergency situation
  - b. An "Essential Visitor" is defined as someone who has business at the site that can not be conducted remotely.
  - c. All efforts will be made to keep any deliveries contact free.
  - d. All visitors will submit to self-attestation screening prior to entering the campus buildings.
  - e. School volunteers will be limited to tasks directly related to the implementation of safety procedures and shall not have access to classrooms.
5. Employee Screenings: The District agrees to engage in "Self Attestation" of staff daily.
- a. Encouraging staff to self-screen before leaving for work (check temperature to ensure temperatures below 100.4 degrees Fahrenheit, check for symptoms outlined by public health officials) and to stay home if they have symptoms consistent with COVID-19 or if they have had close contact with a person diagnosed with COVID-19.
  - b. Bargaining unit members shall be required to respond to a electronic screening questionnaire that is based on CDC recognized symptoms and exposure, including but not limited to:
    - Fever or chills
    - Cough

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- Shortness of breath or difficulty breathing
  - Fatigue
  - Muscle or body aches
  - Headache
  - New loss of taste or smell
  - Sore throat
  - Congestion or runny nose
  - Nausea or vomiting
  - Diarrhea
- c. Temperature checks, if conducted at the work site, and questionnaires shall be performed in a confidential manner.
  - d. Screening records shall be kept confidential.
  - e. Safety screenings and any necessary medical examinations are strictly limited to COVID and shall not be used to inquire into other medical conditions.
6. Student Screenings:
- a. Self Attestation: The District agrees to instruct parents to screen students before leaving for school (check temperature to ensure temperatures below 100.4 degrees Fahrenheit, observe for symptoms outlined by public health officials) and to keep students at home if they have symptoms consistent with COVID-19 or if they have had close contact with a person diagnosed with COVID-19.
  - b. If a student is symptomatic while entering campus or during the school day: Students who develop symptoms of illness as described in Section 5b. while at school will be separated from others right away, isolated in an area through which others do not enter or pass. If more than one student is in an isolation area, the district will ensure physical distancing. The district will ensure that office staff receive and are trained on these guidelines.
7. Meetings: In-person meetings shall be virtual to the extent possible. In the event that a meeting occurs in person, social distancing and the use of Essential Protective Equipment (EPE) will be required. All in-person meetings should have the option of being conducted virtually.
8. Physical Distancing: The District agrees to maintain physical distancing standards in school facilities and vehicles, including but not limited to implementing plans incorporating the following components:
- a. Maintaining appropriate changes to the physical layout to maintain physical distancing:
    - i. One-way hallways to the extent possible;

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- ii. Provide sufficient points of access to avoid larger gatherings to the extent practicable.
  - iii. Limits on the number of students in classrooms or other spaces that can be accommodated while maintaining six feet of distance between individuals. The number of students allowed in a room will reflect the actual size of usable space in the room.
  - iv. Dedicated space(s) to safely isolate students who feel ill.
  - v. Plan to limit the number of people in all campus spaces to the number that can be reasonably accommodated while maintaining a minimum of six feet of distance between individuals.
- b. In a circumstance where sufficient physical distancing is difficult or impossible, all individuals, including staff and students, must wear face coverings that cover the mouth and nose consistent with public health guidance. Both parties recognize that some students, including very young students and some students with disabilities, may struggle to wear face coverings.
- c. Congregation: Employees shall not socially congregate in any workspace, including but not limited to break rooms, common lunch areas, hallways, restrooms and other workspaces. No social activities shall take place in any workspaces in order to protect the health and safety of all and prevent COVID-19 spread. No potlucks or other food sharing will be permitted on campus.
- d. Workplace Contact Tracing: Upon notification that an employee or student has been infected with COVID-19, the District shall work with public health officials and assist with workplace contact tracing and any required notifications.
- i. BFT and its members agree to cooperate with the District in any necessary public health actions, such as contact tracing of infected individuals. All members will comply with contract tracing including signing in and out of locations. This information will be used solely for contact tracing purposes.
- e. The district must coordinate with the CoB to establish district-based contact tracers. The District should notify union leadership and members of possible exposure within one business day, as required by AB685.
- i. Per AB685, the District will provide a written notice to all employees who were at the same worksite as the “qualifying individual” (the potentially exposed employee) within one business day, except on Fridays or prior to Holidays and Breaks, which will be 24 hours, that they may have been exposed through close contact (within 6 feet and for a period of 15

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minutes or longer) to COVID-19. An employee is considered as “qualifying” if they received a lab-confirmed positive test, received a positive diagnosis from a licensed health care provider, received a COVID-19-related order to isolate provided by a public health official.

- ii. Prior to December 31, 2020, any staff member who must quarantine due to workplace exposure and cannot work remotely will be provided with FFCRA emergency paid sick leave for up to two work weeks (prorated for part time employees) and FFCRA expanded FMLA leave for up to ten work weeks at 2/3rds pay, which may be supplemented with use of paid administrative leave. They are also eligible to make a claim for worker’s compensation benefits which may include up to 60 paid days.
- iii. After December 31, 2020, any staff member who must quarantine due to workplace exposure and cannot work remotely will be provided with paid leave that does not use the employee’s accrued leave as needed to cover their illness and/or quarantine time period as defined by public health or medical professionals. They are also eligible to make a claim for worker’s compensation benefits which may include up to 60 paid days.

## 9. Employee and Student Testing:

- a. Consistent with APL 20-028 – Emergency Regulation Regarding COVID-19 Diagnostic Testing, the district will coordinate testing with the County and/or City of Berkeley so if members request testing (even if asymptomatic) they are able to easily schedule appointments (within 24 to 48 hours). If members can not get a test, they should be on paid administrative leave until one is available.
- b. All BFT members will receive a COVID-19 test before returning to ‘in-person’ instruction or service provision. In compliance with the CoB Health Order, the District will require at least monthly surveillance testing for all employees who are working in-person.
- c. Student testing protocols will be discussed as part of a return to in person instruction MOU.

## 10. Reporting Unsafe Conditions: Both parties recognize that all BUSD employees share the responsibility for maintaining a healthy work environment, and that compliance with the terms of this agreement will require each employee to exercise individual responsibility. Unit members should report any unsafe working condition to their supervisor.

- a. In the event that a BFT bargaining unit member is unable to resolve with a co-worker an issue related to risk reduction practices, and in the interest of protecting community and workplace health, any employee should report, in writing, any unsafe condition in the working environment to the immediate

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supervisor. The supervisor shall, within two (2) working days, respond in writing to the employee, with a simultaneous copy to the BFT President, stating what has been done to make the condition safe or, if no action will be taken, the reason(s) why. This method of resolving safety concerns shall not displace the right to file OSHA or other administrative complaints or to bring a grievance for violation of this agreement.

- b. Any member has a "Right to Refuse Hazardous Work" per Cal/OSHA regulations:
    - i. In addition to filing a complaint, the member has the right to refuse hazardous work if both of the following are true:
      - 1. Performing the work would violate a Cal/OSHA health or safety regulation.
      - 2. The violation would create a "real and apparent hazard" to the member or coworkers.
    - ii. When these conditions are met, the member has the right to refuse to perform the work. Before the member refuses, they should take the following steps:
      - 1. Tell their supervisor about the hazard and ask that it be corrected.
      - 2. Explain that they are willing to continue working if the hazard is corrected or you are assigned other work that is safe.
      - 3. State that they believe a health or safety regulation is being violated.
      - 4. Contact their union representative.
      - 5. If the problem is not fixed, call Cal/OSHA and file a complaint.
11. Hand Sanitization: The following will be made available:
- a. Every room with a sink shall be stocked with soap, hand sanitizer, and paper towels;
  - b. Every classroom shall be provided hand sanitizer;
  - c. Non-classroom workspaces shall be provided hand sanitizer;
  - d. Hand sanitizer stations shall be provided at each ingress and egress point;
  - e. Soap, hand sanitizer and paper towel supplies will be actively monitored by all staff in any space where students or staff are working. Supplies will be promptly replenished upon request.
12. Daily Disinfecting: The District shall ensure all classrooms, restrooms, and workspaces that are occupied by students, educators, and other staff are disinfected daily, including but not limited to desks, doorknobs, light switches, faucets, and other high touch fixtures, using a disinfectant on the [Environmental Protection Agency List "N"](#).

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13. Ventilation: The District will ensure ventilation systems operate properly and increase outdoor air circulation as much as possible. All working spaces shall use any combination of mechanical ventilation, natural ventilation, and HEPA air purifiers, as the individual room characteristics dictate, to provide adequate air exchanges. The District shall ensure all HVAC systems operate on the mode which delivers the most frequent air exchanges per hour, including disabling demand-controlled ventilation, and open outdoor air dampers to the maximum extent as indoor and outdoor conditions safely permit. Air filters shall be MERV-13 where systems can accommodate, and changed at the recommended intervals. Portables and/or other rooms without HVAC or means of natural ventilation shall be equipped with low noise HEPA air filters with a large enough capacity and flow rate for the square footage of the room.
- a. All areas used as the isolation space/room of individuals presenting COVID-19 symptoms, if indoors, shall be equipped with adequate ventilation with the use of minimal recirculated air. MERV-13 air filters and/or HEPA filters shall be utilized. The District shall make every effort to utilize unassigned rooms that meet the highest minimum standards for ventilation and air circulation when used as an isolation space/room.
  - b. If “Unhealthy” (AQI of 151 or higher) air quality prevents windows from being open, ‘in-person’ classes will be cancelled.
14. The District will comply with the state, county, and/or city mandates regarding classroom, site, and district closures based on positive test results. The district will maintain and update guidance about individual quarantine and isolation procedures. ([BUSD COVID Leadership Guidelines](#) for Staff Reporting, dated October 14, 2020.)

B. All components of the current Collective Bargaining Agreement, and the August 11 , 2020 Agreement, and the October 13, 2020 Agreement, between BFT and the District not addressed by the terms of this Agreement shall remain in full effect.

C. This agreement is non-precedent setting and only addresses the terms for health and safety protocols for when we resume in-person teaching or services at sites. It does not initiate Phase One of the return to onsite instruction. Terms for subsequent phase(s) shall be subject to bargaining.

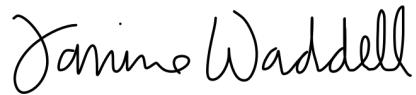
D. Given the fast-changing nature of this pandemic, the Parties may amend, delete, or add to this Agreement with mutual consent.

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E. This Agreement shall expire in full without precedent on the last day of the 2020-2021 traditional school year, unless extended by mutual written agreement.

For the Berkeley Federation of Teachers



Janine Waddell, VicePresident

Date: 10/21/2020

For the Berkeley Unified School District



Samantha Tobias-Espinosa, Assistant Superintendent

Date: 10/21/2020