
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No:	SB 1479	Hearing Date:	April 27, 2022
Author:	Pan		
Version:	April 4, 2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Lynn Lorber		

Subject: COVID-19 testing in schools: COVID-19 testing plans

SUMMARY

This bill requires each local educational agency (LEA) to create a COVID-19 testing plan that is consistent with guidance from the California Department of Public Health (CDPH), requires each LEA and each schoolsite to designate a staff member to report information on its COVID-19 testing program, requires CDPH to coordinate COVID-19 testing programs in LEAs, and requires CDPH to provide supportive services to LEA.

BACKGROUND

Existing law:

- 1) Establishes the California Department of Public Health (CDPH), directed by a state Public Health Officer, to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Existing law provides the Public Health Officer with broad authority to detect, monitor, and prevent the spread of communicable diseases in the state. (Health and Safety Code §131050 and §120130, et seq.)
- 2) Authorizes specified school apportionments to be used for any purpose consistent with providing in-person instruction for any student participating in in-person instruction, including but not limited to, COVID-19 testing, as specified. (Education Code §43521 and §43522)
- 3) Prescribes public health reporting requirements related to COVID-19 for local educational agencies (LEAs), including the development of a COVID-19 safety plan, as specified. (EC §32090 and §32091)

ANALYSIS

This bill requires each LEA to create a COVID-19 testing plan that is consistent with guidance from CDPH, requires each LEA and each schoolsite to designate a staff member to report information on its COVID-19 testing program, requires CDPH to coordinate COVID-19 testing programs in LEAs, and requires CDPH to provide supportive services to LEA. Specifically, this bill:

Local educational agencies (LEAs)

- 1) Requires each LEA to create a COVID-19 testing plan that is consistent with guidance from CDPH.
- 2) Requires each LEA to designate one staff member to report information on its COVID-19 testing program to CDPH.
- 3) Requires each school within a school district to designate one staff member to report information on its COVID-19 testing program to the school district.
- 4) Authorizes each school within a school district to name a staff member to lead its COVID-19 testing program.
- 5) Requires all COVID-19 testing data to be in a format that facilitates a simple process by which parents and LEAs may report data to CDPH.

California Department of Public Health (CDPH)

- 6) Requires CDPH to coordinate COVID-19 testing programs in LEAs funded by federal resources or organized under the California COVID-19 Testing Task Force.
- 7) Requires CDPH, in coordinating these COVID-19 testing programs, to provide supportive services related to the LEA testing plans and testing programs for teachers, staff, students, and surrounding communities that help LEAs reopen and keep LEAs operating safely for in-person learning.
- 8) Requires these supportive services to include, but not be limited to, all of the following:
 - a) Technical assistance.
 - b) Vendor support.
 - c) Guidance.
 - d) Monitoring.
 - e) Testing education.
- 9) Requires CDPH to expand its contagious, infectious, or communicable disease testing and other public health mitigation efforts to include prekindergarten, onsite after school programs, and childcare centers.
- 10) Requires CDPH to determine which COVID-19 tests are appropriate for use in the testing programs described in this bill.

Miscellaneous

- 11) Provides that implementation of the provisions of this bill are contingent upon an appropriation in the annual Budget Act or another statute for this purpose.
- 12) Requires any federal funds, if the state secures additional federal funds through the United States Centers for Disease Control and Prevention Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases Program for the purposes of COVID-19 testing in LEA, to be used before allocating state funds for CDPH's coordination of testing programs, provision of supportive services, and expansion of testing and mitigation efforts.
- 13) Defines "local educational agency" as a school district, county office of education, or charter school serving students in kindergarten or any of grades 1 to 12, inclusive.

STAFF COMMENTS

- 1) *Need for the bill.* The author cites the allocation of \$2.7 billion by the state for COVID-19 testing, and states "Despite these investments, the California Department of Public Health (CDPH) has not implemented a requirement that schools have a COVID-19 testing plan. This has resulted in inconsistent operations throughout the state. Some school districts have implemented strong testing programs, while others have not due to lack of resources or simply because they chose not to. Those that have implemented robust testing programs, increased vaccination rates, and masking have been able to provide in-person learning while preventing death and disability caused by COVID-19. In schools without testing protocols in place, students across California organized walkouts and sickouts to demand tests. Unfortunately, it was reported that adults mocked and bullied their efforts to protect their fellow students. Additionally, current testing programs do not account for other locations our children frequently attend, like preschool, afterschool programs, and childcare centers.

"SB 1479 ensures all school districts, County Offices of Education, and charter schools have a testing plan in place so parents stay informed of what is occurring on campus and schools remain prepared to handle COVID-19 surges in the future. Parents have a right to know if their child was exposed to COVID-19 at school. By requiring schools have a plan to test for COVID-19, SB 1479 ensures parents are informed about COVID-19 spread in schools. Although vaccination remains the cornerstone of public health's response to COVID-19, testing at our schools remains essential to preventing surges of the virus. This bill will help keep schools open and safe by ensuring schools have a plan to test for COVID-19 that is consistent with CDPH guidance. California must have its own testing plans and resources to reassure school districts that we will support them no matter what."

- 2) *Why conduct COVID-19 testing in schools?* In February 2022, the Governor released the *California SMARTER Plan: The Next Phase of California's COVID-19 Response*. This plan serves as a roadmap for moving forward, including "getting the right type of tests - PCR or antigen - to where they are needed most. Testing will help California minimize the spread of COVID-19." [The California SMARTER Plan February 2022](#)

The Safe Schools for All Hub provides a COVID-19 School Testing Framework that provides testing strategies and resources to assist schools in resuming full-time, in-person instruction. According to California's Safe School for All Hub, "Regular testing of unvaccinated students and staff who have no symptoms is an important layer to help protect school communities, especially when paired with important prevention measures such as masking and ventilation. Regular screening testing allows cases to be caught early before they can lead to the spread of COVID-19. Regular testing (such as testing a percentage of the population or testing at less frequent intervals) can reassure the school community and inform policies based on comparison of school case rates as compared to the community. Testing symptomatic children can help them return to school faster.

"Although vaccines are now widely available and vaccinated individuals are less likely to be infected with or transmit COVID-19, not all students and staff who are eligible for vaccination have been vaccinated. This highlights the continued need for proven COVID-19 prevention strategies, including testing people in school communities. Therefore, COVID-19 testing in K-12 schools remains a powerful tool for preventing the transmission of COVID-19." [CA Covid-19 School Readiness Hub](#)

On March 26, 2022, the Governor released a statement saying "the state has distributed more than 14.3 million COVID-19 at-home tests to schools for students and staff. In partnership with local county offices of education, the state has allocated tests based on the total number of students and staff – in both public and private schools – in each county." This statement cited the importance of testing as part of the state's SMARTER plan.

- 3) *State's vaccine requirement for schools.* On April 14, 2022, the Governor released a statement saying, "The federal Food and Drug Administration (FDA) has not yet fully approved COVID-19 vaccines for individuals of all ages within the 7–12 grade span. The State of California announced last October that full approval by the FDA was a precondition to initiating the rulemaking process to add the COVID-19 vaccine to other vaccinations required for in-person school attendance—such as measles, mumps, and rubella—pursuant to California's Health and Safety Code. To ensure sufficient time for successful implementation of new vaccine requirements, California will not initiate the regulatory process for a COVID-19 vaccine requirement for the 2022-2023 school year and as such, any vaccine requirements would not take effect until after full FDA approval and no sooner than July 1, 2023." Further, the statement asserts "Upon full approval by the FDA, CDPH will consider the recommendations of the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention, the American Academy of Pediatrics, and the American Academy of Family Physicians prior to implementing a school vaccine requirement."
- 4) *California COVID-19 Testing Task Force.* The California COVID-19 Testing Task Force was established in April 2020 to increase the state's COVID-19 testing capacity, with the goal of ensuring that every Californian who needs a test can get one. According to the Task Force's website, its role is to: a) Guide the use

and operations of a limited number of state-based testing sites; b) Share information and track progress on testing and testing gaps; c) Bring together experts to develop guidance to enable better testing; d) Drive targeted initiatives to improve testing access, timeliness, and equity; and, e) Provide informational resources to Californians and other partners and stakeholders (e.g., local health jurisdictions).

Under the task force's California K-12 Schools Testing Program, CDPH, and the task force are offering:

- a) Two Polymerase chain reaction (PCR) testing programs, Individual PCR and Pooled PCR, to support COVID-19 testing in California K-12 schools. LEAs may partner with the Valencia Branch Laboratory at no cost, or use a commercial lab at the LEAs own cost.
 - b) A program for rapid testing in California K-12 schools using Abbott BinaxNow antigen tests, at no cost to LEAs. This option requires schools to enter into a memorandum of understanding. [School Testing | California Coronavirus Testing Task Force](#)
- 5) *COVID-19 Public Health Guidance for K-12 Schools in California*. On July 12, 2021, CDPH released a public health guidance for K-12 schools, which is designed to keep schools open for in-person instruction safely during the COVID-19 pandemic, consistent with current scientific evidence. According to the guidance, in-person schooling is critical to the mental and physical health and development of our students, and the guidance is designed to help K-12 schools continue to formulate and implement plans for safe, successful, and full in-person instruction in the 2021-22 school year. This guidance has been updated since its initial release.

This guidance includes mandatory requirements, in addition to recommendations and resources to inform decision-making. Implementation requires training and support for staff and adequate consideration of student and family needs.

According to CDPH, "When applying this guidance, consideration should be given to the direct school population and the surrounding community. Factors include: a) community level indicators of COVID-19 and their trajectory; b) COVID-19 vaccination coverage in the community and among students, teachers, and staff; c) local COVID-19 outbreaks or transmission patterns; d) indoor air quality at relevant facilities; e) availability and accessibility of resources, including masks and tests; f) ability to provide therapeutics in a timely and equitable manner as they become available; g) equity considerations, including populations disproportionately impacted by and exposed to COVID-19; h) local demographics, including serving specialized populations of individuals at high risk of severe disease and immunocompromised populations; and, i) community input, including from students, families, and staff."

The testing component of the guidance provides:

- a) Recommendations for staying home when sick and getting tested, as specified.
- b) Screening testing recommendations.
- c) Recommendations for Students exposed to COVID-19 (including testing).
- d) School-Based Extracurricular Activities (including testing if masks are not worn).

The guidance further recommends that, when implementing this guidance, schools should carefully consider how to address the legal requirements related to the provision of a free appropriate public education and requirements to reasonably accommodate disabilities, which continue to apply.

- 6) *Designation of staff.* This bill requires each LEA to designate one staff member to report information on its COVID-19 testing program to CDPH and requires each school within a school district to designate one staff member to report information on its COVID-19 testing program to the school district. These requirements are a furtherance of CDPH guidance, which provides that LEAs should have a COVID-19 liaison to assist the local health department with activities related to COVID-19. *Do LEAs have the staffing capacity to dedicate staff to COVID-19 testing?*
- 7) *Which types of tests?* This bill requires CDPH to determine which COVID-19 tests are appropriate for use in the testing programs described in this bill. Current methods of COVID-19 testing in schools include nasal swaps and saliva tests. On April 14, 2022, the United States Food and Drug Administration announced it has issued an emergency use authorization for the first COVID-19 diagnostic test that detects chemical compounds in breath samples associated with a COVID-19 infection. The test uses an instrument about the size of a piece of carry-on luggage and can provide results in less than three minutes.

This bill requires LEAs to develop a COVID-19 testing plan, but does not prescribe the contents or details of plans, other than that they be consistent with CDPH guidance. It is likely that many or most LEAs will consult with employees and parents in the development of the LEA's plan. Plans could be unique to each LEA and its community, for example considering the COVID-19 testing needs of its students with exceptional needs.

- 8) *Fiscal considerations.* AB 128 (Ting, Chapter 21, Statutes of 2021) allocated \$319,675,000 to CDPH for various programs related to the COVID-19 pandemic, including funds to support COVID-19 testing in schools allocated from the federal American Rescue Plan Act of 2021 (Public Law 117-2). AB 128 also permits augmentation of up to \$887,716,000 to support COVID-19 testing in schools allocated from those federal funds.

AB 86 (Committee on Budget, Chapter 10, Statutes of 2021) allocates \$25 million for the Safe Schools For All Team to coordinate technical assistance, community engagement, increased transparency, and enforcement for public school health

and safety during the COVID-19 pandemic. Existing law provided that these funds may be encumbered until June 30, 2023.

The Governor's 2022 Budget proposes \$362 million for continued testing efforts, in many settings in addition to testing in schools. The Budget further proposes \$1.1 billion for COVID-19 impacts (excluding caseload), including COVID-19 testing in schools among other things.

Implementation of this bill is contingent upon an appropriation for this purpose.

- 9) *Senate Health Committee*. This bill was heard and passed by the Senate Health Committee on March 30, 2022, on a 9-2 vote.

SUPPORT

Protect US (sponsor)
 Genup (co-sponsor)
 Teens for Vaccines INC. (co-sponsor)
 Advanced Medical Technology Association
 California Academy of Family Physicians
 California Medical Association
 California Pan - Ethnic Health Network
 County Health Executives Association of California
 Public Health Institute
 Sacramento City Unified School District
 Women's Foundation California
 6 Individuals

OPPOSITION

A Voice for Choice Advocacy
 California Health Coalition Advocacy
 California Parent Power
 Catholic Families 4 Freedom CA
 Catholic Families for Freedom San Bernardino
 Children's Health Defense California Chapter
 Committee to Support Parental Engagement in Santa Clarita School Districts
 Educate. Advocate.
 Freedom Keepers United, CA Freedom Keepers
 Hughson Unified School District
 Let Them Breathe
 Natomas USD for Freedom
 North Cow Creek Elementary School District
 Protection of The Educational Rights for Kids
 Protection of The Educational Rights of Kids
 Reopen California Schools
 San Joaquin County Liberty Coalition
 Stand Up Sacramento County
 United California Patriots
 1,674 Individuals

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