

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 1479 (Pan) – As Amended April 4, 2022

[Note: This bill is double referred to the Assembly Health Committee and was heard by that Committee as it relates to issues under its jurisdiction.]

SENATE VOTE: 27-9

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

SUMMARY: 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, afterschool, and childcare settings; and requires CDPH to provide supportive services to LEAs. Specifically, **this bill:**

- 1) Requires the CDPH to coordinate COVID-19 testing programs in LEAs funded by federal resources or organized under the California COVID-19 Testing Task Force.
- 2) Requires the 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.
- 3) Requires these supportive services to include, but not be limited to, all of the following: technical assistance, vendor support, guidance, monitoring, and testing education.
- 4) Requires the 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.
- 5) Requires the CDPH to determine which COVID-19 tests are appropriate for use in the testing programs described in this bill.
- 6) 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.
- 7) Requires each LEA to create a COVID-19 testing plan that is consistent with guidance from the CDPH.
- 8) Requires each LEA to designate one staff member to report information on its COVID-19 testing program to the CDPH.

- 9) 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.
- 10) Authorizes each school within a school district to name a staff member to lead its COVID-19 testing program.
- 11) 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 the CDPH.
- 12) Defines LEA as a school district, county office of education (COE), or a charter school.
- 13) The provisions of this bill are contingent upon an appropriation in the annual Budget Act or another statute for this purpose.

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 (HSC) 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 (EC) 43521 and 43522)
- 3) Requires every LEA and private school offering in-person instruction for kindergarten or any of grades 1 to 12, inclusive to post a completed COVID-19 safety plan on its website home page. Makes this requirement inoperative as of June 30, 2022. (EC 32091(b))
- 4) Requires employers to establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program must include, but are not limited to, a system of communication including access to COVID-19 testing, identification of COVID-19 hazards, and responding to COVID-19 cases including contact tracing. (California Code of Regulation (CCR) 3205(c))
- 5) Requires the school administrator of a public or private school campus to notify the local health officer or representative if a school employee or pupil at a public or private school campus maintaining kindergarten or any of grades 1 to 12, inclusive, in the state has tested positive for COVID-19. Inoperative as of June 30, 2022. (EC 32090)

FISCAL EFFECT: According to the Senate Appropriations Committee, “While the bill’s provisions would be contingent upon an appropriation, it could trigger substantial Proposition 98 General Fund cost pressures each year. The bill lacks specificity on the testing plan

requirements for LEAs so it is difficult to calculate a precise estimate. However, assuming each school district would need a minimum of one new position and \$150,000 to develop and administer a COVID-19 testing plan and complete the data reporting requirements, this bill could result in Proposition 98 General Fund costs in the hundreds of millions of dollars each year. These costs could be offset by other funds provided in the budget for similar activities, such as the Governor’s Budget proposal for continued testing efforts.”

COMMENTS:

Need for the bill. The author states, “SB 1479 is by students and for students to ensure their right to quality in-person education. Although vaccination remains the cornerstone of public health’s response to COVID-19, testing at our schools is essential to preventing surges of the virus. At the federal level, key COVID-19 funding is lapsing due to congressional inaction, which is why this bill is contingent on an appropriation that would fund COVID-19 testing for the 2022-2023 fiscal year. This bill will help keep schools open and safe by ensuring schools have a plan to test for COVID-19 that is consistent with the CDPH guidance. California must have its own testing plans and resources to reassure school districts that we will support them no matter what.”

California Coronavirus Testing Task Force. In April 2020, the California COVID-19 Testing Task Force was established to increase the state’s COVID-19 testing capacity. The goal of the Testing Task Force is to support California’s SMARTER plan by increasing access to testing for all Californians. The main goals of the Testing Task Force include:

- Developing expert guidance to better understand and implement testing;
- Driving targeted initiatives to improve testing access, timeliness, and equity;
- Leveraging innovative technologies and strategies to reduce barriers to testing;
- Facilitating testing through trusted community and school sites;
- Supporting genomic surveillance and epidemiology through COVIDNet;
- Operationalizing state-sponsored Test-to-Treat sites; and
- Sharing data and tracking progress on access to testing and treatment.

The California Testing Task Force website includes information on finding Test-to-Treat sites, finding testing sites, and information regarding guidance and best practices around testing in California.

California’s SMARTER plan: The next phase of California’s COVID-19 response. 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 the state’s next phase of the state’s COVID-19 preparedness and response. The CDPH states that the SMARTER plan is not just for COVID-19; the preparedness and flexibility around COVID-19 response has set systems in place to be better prepared for future infectious disease emergencies. The main points that define the SMARTER plan include the following:

- Shots (vaccine administration);
- Masks (personal protective equipment distribution);
- Awareness (communication);
- Readiness (surveillance and surge staffing);
- Testing (types of test);
- Education (expand vaccination rates among kids); and
- Rx (treatment/therapeutics).

The plan states that California will continue to work to keep schools open and children safely in classrooms for in-person instruction. More than 4,800 schools have state-supported testing programs, nearly 200 OptumServe sites exist across California's communities, and more than 2,800 community-based entities supported sites are offering antigen or PCR testing or both. All OptumServe testing sites provide prescription COVID-19 medication to eligible people who test positive for COVID-19.

At the time the plan was released, California made up less than 1% of the nation's school closures in the 2021-22 school year, despite educating over 12% of the nation's students. The plan states that hospitalizations for COVID-19 (including pediatric hospitalizations) and disruptions to in-person learning have been substantially lower than in comparable states.

Safe Schools for All Hub. The Safe Schools For All Hub consolidates key resources and information related to COVID-19 and schools. This 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."

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 COEs, 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.

On June 17, 2022, the Governor released a statement on rolling back COVID-19 Executive Orders while maintaining testing, vaccination programs, and adequate hospital staffing as outlined in the SMARTER plan. This action terminated five provisions related to Cal/OSHA’s COVID-19 Emergency Temporary Standards with an additional 15 provisions set to expire on June 30. Only 5% of the COVID-19 executive orders will remain and will support COVID testing, vaccinations, protecting hospital capacity, and infant formula price gouging. The measures still in effect will provide COVID-19 testing flexibility and will continue under the SMARTER plan which processes at least 500,000 tests a day.

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.

Preliminary testing framework for K-12 schools for the 2022-23 school year. The CDPH and California COVID-19 Testing Task Force released an updated preliminary testing framework on May 27, 2022 for the 2022-23 school year to support current and ongoing planning processes. The updates include the following:

- CDPH will distribute an additional 15 million COVID-19 over-the-counter (OTC) tests to all COEs for use by public and private schools starting August 1, 2022;
- The CDPH recommends antigen test as the primary option for detecting COVID-19 in schools. Current CDPH school-based PCR testing programs are recommended to transition to OTC tests; and
- The CDPH will continue to support professional on-site antigen testing programs in the 2022-2023 schoolyear. However, the volume of anticipated on-site testing is likely to decrease with the increased availability and ease of OTC tests. Workload for on-site testing is predicted to substantially decrease for the 2022-2023 school year as OTC testing will often meet testing needs. As such, state support for school-based testing staff will be reduced.

Arguments in support. The California School Employees Association states, “With the seemingly endless discovery of new variants, it is clear that we will be living with the COVID-19 virus for the foreseeable future. Currently, there is no requirement for LEAs to have a COVID-19 testing plan, which has created inconsistency across the state. Some LEAs have robust testing programs, while others do not. Those that do not cite a lack of resources while others simply choose not to do so. Those LEAs that have implemented a robust testing program have seen increases in vaccination rates and mask use, which has allowed them to provide a safe, in-person learning environment.”

Arguments in opposition. The Association of California School Administrators states, “ACSA believes health directives need to be shifted back to public health agencies so that schools can focus on student education. COVID-19 testing in particular, is now widely being done at home through rapid antigen testing. Kits can be requested through the White House website

COVIDtests.gov and delivered directly to home addresses. The CDPH’s support and guidance for schools is going in the opposite direction of SB 1479 and officials have explicitly told administrators to shift efforts to home-based testing. State testing infrastructure and support for LEAs has diminished since the Valencia Branch Laboratory closed and Testing Task Force office hours for LEAs have been reduced from twice weekly, to one hour a month.”

Related legislation. AB 128 (Ting), Chapter 21, Statutes of 2021, allocated \$320 million to the 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. AB 128 also permits augmentation of up to \$888 million 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. These funds may be encumbered until June 30, 2023.

Recommended Committee Amendments. Staff recommends that the bill be amended to:

- 1) Require the local health department to support the development of a testing plan for LEAs in their jurisdiction based on best practices from the Safe School for All Hub.
- 2) Remove the requirement for LEAs to designate staff members to report information of its COVID-testing program to the CDPH and to the school district.
- 3) Clarify that charter schools are included by replacing references to school districts with LEAs.
- 4) Have a sunset date of December 31, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

Protect US (sponsor)
Advanced Medical Technology Association
Berkeley Unified School District
California Academy of Family Physicians
California Federation of Teachers
California Medical Association
California Pan - Ethnic Health Network
California School Employees Association
County Health Executives Association of California
Genup
Ginkgo Bioworks
Helix
Primary. Health
Public Health Institute
Sacramento City Unified School District

Safer Together
Summerbio
Teens for Vaccines INC.
Women's Foundation California

Opposition

Association of California School Administrators
A Voice for Choice Advocacy
California Association of Suburban School Districts
California Health Coalition Advocacy
California Parent Power
California Parents United
Catholic Families 4 Freedom CA
Children's Health Defense California Chapter
Committee to Support Parental Engagement
Educate. Advocate.
Families for Opening Carlsbad Schools
Freedom Keepers United, CA Freedom Keepers
Let Them Breathe
Libertarian Party of California
Moms for Liberty, Yolo County
Natomas USD for Freedom
Protection of the Educational Rights for Kids
Protection of the Educational Rights of Kids
Reopen California Schools
Riverside County Office of Education
San Diego County Office of Education
San Joaquin County Liberty Coalition
School Employers Association of California
Small School Districts' Association
Stand Up Sacramento County

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