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| Introduction Date | 3/24/2020 |
| Enactment Number | 21-0463 |
| Enactment Date | 3/24/2021 er |



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Joshua R. Daniels, General Counsel

Meeting Date March 24, 2021

Subject Resolution No. 2021-0044 - COVID-19 Testing Condition under AB 86

Ask of the Board Adoption of Resolution No. 2021-0044 – COVID-19 Testing Condition under AB 86

Background Assembly Bill No. 86 (“AB 86”) was approved by the Legislature and signed by the Governor on or about March 5, 2021. It was designed to support and encourage school districts to offer some level of in-person instruction by providing funding to do so as long as districts met certain conditions. One of those conditions is that a school district must “conduct[] asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs” if that district’s county is in the purple tier unless the district either provides “in-person instruction” by March 31, 2021, or the governing board of the district adopts, by March 31, 2021, “a plan to provide in-person instruction and has publicly posted its COVID-19 safety plan on its internet website.”

Discussion The District will meet this condition in two different ways. First, OUSD and the Oakland Education Association (“OEA”) have reached a tentative agreement (“TA”) for certain OEA members to provide in-person instruction starting March 30, 2021. Additionally, OUSD has publicly posted its COVID-19 safety plan online and the Resolution officially adopts the TA as its “plan” to provide in-person instruction for purposes of AB 86.

Fiscal Impact None. The Resolution itself only helps the District meet one of the conditions necessary to receive funding under AB 86.

Attachment

- Resolution No. 2021-0044 - COVID-19 Testing Condition under AB 86

**RESOLUTION
OF THE
BOARD OF EDUCATION
OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2021-0044

COVID-19 Testing Condition under AB 86

WHEREAS, Assembly Bill No. 86 ("AB 86") was approved by the Legislature and signed by the Governor on or about March 5, 2021;

WHEREAS, AB 86 was designed to support and encourage schools to offer some level of in-person instruction by providing funding to do so;

WHEREAS, AB 86 includes certain conditions that must be met in order for school districts to access such funding;

WHEREAS, one of those conditions is that a school district must "conduct[] asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs" if that district's county is in the purple tier unless the district either provides "in-person instruction" by March 31, 2021, or the governing board of the district adopts, by March 31, 2021, "a plan to provide in-person instruction and has publicly posted its COVID-19 safety plan on its internet website"; and

WHEREAS, AB 86 defines "in-person instruction" as "instruction under the immediate physical supervision and control of a certificated employee of the local educational agency while engaged in educational activities required of the pupil," and such instruction "may include hybrid models offering fewer than five days per week of in-person instruction . . . only if the local educational agency offers in-person instruction to the greatest extent possible pursuant to subdivision (b) of Section 43504".

WHEREAS, the Oakland Unified School District ("OUSD") intends to provide in-person instruction, as defined by AB 86, for grades PK-2 and "prioritized pupil groups," as defined by AB 86, starting March 30, 2021; and

WHEREAS, OUSD has publicly posted its COVID-19 safety plan on its internet website at www.ousd.org/reopening2021; and

WHEREAS, OUSD and the Oakland Education Association ("OEA") have reached a tentative agreement ("TA") for certain OEA members to provide in-person instruction starting March 30, 2021, and for all OEA members to be ready to provide in-person instruction starting April 19, 2021.

NOW, THEREFORE, BE IT RESOLVED, the Board of Education hereby adopts the TA as its "plan" to provide in-person instruction for purposes of AB 86, although the TA is distinct and separate from OUSD's educational program referenced in the TA; and

BE IT FURTHER RESOLVED, that OUSD has met both optional the condition established in AB 86, specifically Section 43521(c)(3)(D)(ii), regarding student and staff testing because (i) OUSD will provide in-person instruction by March 31, 2021 and (ii) OUSD has “publicly posted its COVID-19 safety plan on its internet website” and, by this Resolution, the Board has adopted “a plan to provide in-person instruction.”

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 24 day of March, 2021, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, VanCedric Williams, Gary Yee, Mike Hutchinson, Clifford Thompson, Vice President Benjamin "Sam" Davis, President Shanthi Gonzales

NOES: None

ABSTAINED: None

RECUSED: None

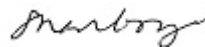
ABSENT: Samantha Pal (Student Director), Jessica Ramos (Student Director)

CERTIFICATION

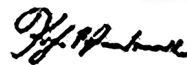
We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on March 24, 2021.

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Shanthi Gonzales
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education