

**California Department of
Education**

**PANDEMIC
INFLUENZA
MANUAL**

**2009
DRAFT**



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SECTION 1: OVERVIEW AND STATEMENT OF PURPOSE

The threat of a pandemic influenza requires preparation and a coordinated statewide response. On June 9, 2009, Kathleen Sebelius, Secretary, United States Department of Health and Human Services, stated: "Given the unique combination of regular seasonal flu, as well as the new H1N1 virus, it's important for every family and business to prepare their own household and business plans and think through the steps they will take if a family member or co-worker contracts the H1N1 flu. This is a responsibility that we all share as parents, neighbors, co-workers, and community members. And states, territories, and tribes all have a critical role to play in protecting the American people." Similarly, the United States Centers for Disease Control and Prevention (CDC) recommends that appropriate responses to a pandemic influenza be determined through a collaborative decision-making process involving public health agencies, local educational agencies (LEAs), parents, and communities. The CDC maintains a School Planning Web page with current guidance for LEAs and health officers at <http://www.flu.gov/plan/school/schoolguidance.html> (Outside Source).

This manual is intended to complement federal guidance to LEAs regarding pandemic influenza and to provide resources and guidance specific to the state of California. It is the policy of the California Department of Education (CDE) to take all possible steps to help limit the spread of influenza, mitigate disease and suffering, and lessen the impact on staff, children and families, and child care and after school providers.

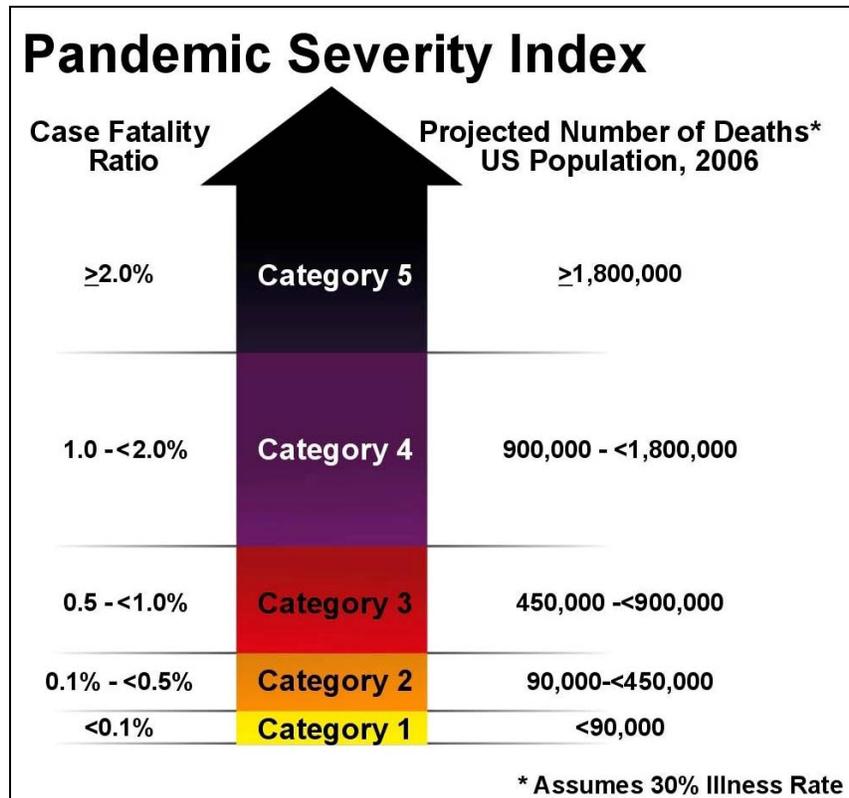
The California Department of Public Health (CDPH) currently evaluates the strength of a pandemic influenza according to measures of transmission and severity. To determine the level of transmission, the CDPH relies on the World Health Organization's (WHO's) Pandemic Phases (see page 4). To determine the severity, the CDPH relies on the CDC's Pandemic Severity Index (see page 4). Based on these two measures, the CDPH will provide guidance regarding student dismissals in the event of a pandemic influenza.

Depending on the pronouncements of state and local health officials, response to a pandemic influenza may range from individual student dismissals in the case of a moderate-severity pandemic, to school-, district-, or statewide student dismissals in the case of a high-severity pandemic. Pandemic influenza typically comes in two to four waves over the course of one to two years, with each wave lasting several weeks. Periods of student dismissal are likely during each wave of the pandemic in order to avoid the transmission of the illness. Additionally, small clusters at Phase/Level 5 (WHO) may result in the closure of some district offices and/or the CDE headquarters building.

World Health Organization (WHO) Pandemic Phases or Levels

Phase 1–2	Inter-pandemic	No new subtype Risk from novel type
Phase 3–4	Alert Phase	Human infection— rare—or limited spread to contact
Phase 5	Alert Phase	Small clusters; poorly adapted to humans
Phase 6	Pandemic Period	Sustained transmission

Centers for Disease Control and Prevention (CDC) Pandemic Severity Index



<http://www.cdc.gov/media/pdf/MitigationSlides.pdf> (Outside Source)

Section 2: CDE Recommendations and Resources for Preparedness and Prevention

Local educational agencies (LEAs), which for purposes of this manual include county offices of education, districts, charter schools, traditional schools, and child care agencies, must be prepared to handle a possible flu outbreak in their communities.

District, school, and preschool safety plans should be reviewed immediately and updated if necessary to include procedures for addressing a possible pandemic influenza. In the event that a local health officer orders a schoolwide student dismissal due to a flu emergency, it is important that all staff members are familiar with emergency plans and procedures.

The California Department of Education (CDE) is working closely with the California Department of Public Health (CDPH) and the state health officer and will monitor guidance issued by the Centers for Disease Control and Prevention (CDC) in order to keep LEAs informed about the latest information regarding response to pandemic influenza.

Planning Resources for LEAs

The CDE has a variety of resources available to help schools and child care agencies prepare for and prevent the spread of pandemic influenza. These resources are available on the CDE Flu Prevention Web page at <http://www.cde.ca.gov/ls/he/hn/fluinfo.asp>. Resources include:

- A listing of resources and information on preparing for and responding to a potential pandemic influenza, including a link to the CDC's Flu Web site, <http://www.flu.gov> (Outside Source).
- Frequently asked questions and answers about how schools can prepare for pandemic influenza.
- Planning checklists to guide LEAs, child care agencies, and preschools in preparing for pandemic influenza. The checklists can be used to ensure that all relevant issues are covered in a school safety plan. The sections of the checklist cover all phases of a disease outbreak and are labeled Prevention and Mitigation, Preparedness, Response, and Recovery.
- Sample flu notification letters and information for parents, including how to protect their family and what to do in the case of schoolwide student dismissal. The sample letters are available in multiple languages and can be customized to district and school needs and used for any type of influenza.

Additionally, the CDPH and CDE maintain a joint Web page for pandemic influenza school preparedness at <http://www.cdph.ca.gov/programs/immunize/Pages/ReadyCASchools.aspx> (Outside Source). Resources for each of the four stages of school planning listed above

(Prevention and Mitigation, Preparedness, Response, and Recovery) are arranged by age group. Planning tools are available for school administrators, teachers, and older students.

To prevent the spread of the influenza virus, the CDE strongly advises the following actions be taken by LEAs and that LEAs encourage these practices among students and staff:

- School personnel who are sick should stay home.
- Students who are sick should stay home.
- Students and staff members should cover their mouths and noses when they cough and sneeze.
- Students and staff members should wash hands often and properly—for at least 20 seconds using soap and water.
- Schools sites should have soap and water and/or hand sanitizers for both student and staff use.

The latest guidance from the CDC includes the respiratory etiquette and hand hygiene guidelines explained above and recommends an exclusion period of three to five days for infected individuals. Staff and students with influenza-like illness or symptoms should remain home until at least 24 hours after they are free of fever without the use of fever-reducing medications and should avoid contact with others. The CDC also recommends routine cleaning of school areas and surfaces to prevent the spread of the influenza virus, as well as immediately moving ill students and staff to a designated sick room until they can be sent home. Special precautions should be taken for high-risk students and staff. Those in the high-risk category should seek early treatment with antiviral medications, and consideration should be given to selective school dismissal to better protect high-risk students. The CDC recommends additional interventions based on increased severity and impact of the influenza outbreak. These recommendations are available on the CDC's School Guidance Web page at <http://www.flu.gov/plan/school/schoolguidance.html> (Outside Source).

Current recommendations for individuals experiencing flu-like symptoms can be found at the CDC's advisory Web page at <http://www.cdc.gov/h1n1flu/sick.htm> (Outside Source).

Authority of Health Officers to Order Student Dismissal to Protect Public Health

In the event of a declared influenza outbreak, local health officers, independent of or in collaboration with the state health officer, have the authority to order student dismissal and/or close schools to protect public health.

Because the public health goal is to prevent the spread of influenza commonly associated with children in close proximity of one another, student dismissal orders are the most commonly anticipated orders. Local health officers have the authority to determine the length of time associated with student dismissals and school closures. LEAs and child care agencies must comply with student dismissal or school closure orders issued by a state or local health officer.

If a local or state public health officer issues a student dismissal order, LEAs should immediately cancel all other school gatherings involving students (i.e., sports events or school dances) scheduled during the affected time frame and advise parents to prevent their children from congregating with other children during the student dismissal period.

It is important to note, however, that while students are absent from the school site due to a student dismissal order, school personnel can safely work at the school site in order to continue educational services for students through distance learning, online programs, or take-home packets. More information about distance learning options is discussed later in the manual. Additionally, for information regarding National School Lunch Program operations, please see the Food and Nutrition Services section of this manual.

Section 3: Notification and Reporting Procedures for Student Dismissals Ordered by Local or State Health Officials

To protect public health, a state or local public health officer has the authority to order individual, schoolwide, districtwide, countywide, or statewide student dismissals. LEAs are required to follow the directives of the local and state health officers regarding student dismissals, school closures, student re-admittance, and school reopening.

Notification Procedures for Statewide Student Dismissals

In the event of a statewide student dismissal policy ordered by a public health officer, the State Public Health Officer at the California Department of Public Health (CDPH) will notify the State Superintendent of Public Instruction and the California Department of Education (CDE). The CDE will immediately notify, by e-mail and phone, all 58 county offices of education, State Special Schools, direct-funded charter schools, any schools directly chartered by the State Board of Education, state-funded child care centers, and the California School Age Families Education (Cal-SAFE) program agencies. In addition, CDE's Child Development Division (CDD) will contact all of its contracted agencies, including family child care home education networks and alternative payment programs, through its e-mail list-serv. The After School Program Office will contact all of its grant contractors by e-mail. The CDE will also work with the CDPH to notify the media of the statewide student dismissal policy in order to inform the public.

The CDPH will also notify all local health offices of the statewide order to dismiss students. It is important to note, however, that depending on the severity of the influenza outbreak, a local health officer may issue an order to dismiss students that is limited to a particular school, district, county, or region.

Reporting Procedures for School- and Districtwide Student Dismissals

The U.S. Centers for Disease Control and Prevention (CDC) and the U.S. Department of Education (ED) have established a School Dismissal Monitoring System to report on novel influenza A (H1N1)-related school or school district dismissals throughout the United States for the 2009–2010 school year.

If a state or local public health officer in California issues a school- or districtwide student dismissal order, local education agencies (LEAs), including county offices of education, districts, and direct-funded charter schools, are responsible for reporting all school- and/or districtwide student dismissals to the CDC and ED via the Novel Influenza A (H1N1)-Related School Dismissal Reporting Form, available online at <http://cdc.gov/h1n1flu/schools/dismissal%5Fform/> (Outside Source). The form may be completed and submitted online, or it may be downloaded and then submitted by e-mail or fax. Information required for the reporting form includes the name and ZIP code of

the school or district affected by the dismissal order, the date of dismissal, and the projected date of re-opening.

To the extent that LEAs become aware of dismissal policies affecting private schools within their area of jurisdiction, the CDC asks that such information be provided as well.

LEAs should note that this reporting procedure applies only in instances of a schoolwide or districtwide dismissal policy. Individual student or staff absences due to H1N1 or other influenza do not need to be reported to the CDC.

Reports regarding schoolwide or districtwide student dismissal policies due to H1N1 submitted to the CDC and ED will be automatically and simultaneously reported to the CDE. The CDE will maintain an up-to-date Web page listing of all affected California schools at <http://www.cde.ca.gov/nr/re/ht/yr09h1n1.asp#public>. The CDE will also simultaneously share such updates with the CDPH and the California Emergency Management Agency (CALEMA).

To assist LEAs in notifying parents and guardians about flu prevention, flu outbreak, student dismissals, and student re-admittance, sample notification letters are available in multiple languages on the CDE Web page at <http://www.cde.ca.gov/ls/he/hn/pandemicflunotify.asp>.

Section 4: Fiscal Impacts of Student Dismissals Ordered by Local or State Health Officials

In the instance of a pandemic, the California Department of Education (CDE) will make it a priority to ensure that local educational agencies (LEAs) continue to receive timely allocations of principal apportionment funds, state categorical funds, and federal categorical program funds (this does not include federal or state meal reimbursement). Timely allocation of funds is imperative to ensure that LEAs receive at least minimum operational funding and to minimize the need for local borrowing, which may be unavailable during a pandemic flu.

If reductions in CDE staff are experienced due to pandemic flu, funding calculations and allocation methods will be altered in order to allocate funds expeditiously.

Statutory Authority

While current statutes (*California Education Code* [EC] sections 41422, 46390, and 46392)¹ hold LEAs harmless for reductions in or loss of average daily attendance due in specific types of emergencies, existing law does not grant the CDE the requisite authority to adjust the state funding calculations for all of the state-funded programs allocated by CDE in the event of a declared statewide emergency or pandemic, nor does existing statute hold LEAs harmless for significant reductions in pupil enrollment due to a pandemic.

The legislature would need to enact statutory changes to allow the adjustment of funding calculations and allocation methods to ensure timely payments to LEAs in the event of a declared emergency or pandemic pursuant to *EC* Section 8482.8, which currently applies only to after school programs, and to broaden the existing “hold harmless” provisions (*EC* sections 46390 and 46392) for LEAs in the instance of a declared emergency or pandemic.

With regard to federally funded categorical programs, the CDE will work with the federal Department of Education to seek waivers of program and funding allocation requirements to ensure that federal funds are disbursed with minimal interruption. For information regarding the National School Lunch Program, please refer to the Food and Nutrition Services section of this manual.

Pandemic Apportionment Procedure

Principal Apportionment

Under the proper legislative authority, each LEA’s allocation of funds for programs allocated through the principal apportionment unit will be equal to its prior year total

¹ See the Appendix for listing of relevant sections of California law.

allocation less any amount already received for the current fiscal year. The CDE will determine an appropriate schedule of apportioning funds based on the timing of the pandemic and the state's cash flow needs.

Upon resumption of normal business at the conclusion of the pandemic, the CDE will evaluate the fiscal impact of the pandemic on LEAs and may determine appropriate adjustments to LEA revenue limits and principal apportionment program entitlements. These adjustments will be made in the process of reconciling funding received during the pandemic against calculated entitlements to funding. Adjustments to entitlements may include reductions in the event that schools are closed and not serving students for extended periods of time.

Federal Categorical Funds

In the event that entitlements to federally funded categorical programs are already calculated, each LEA will be allocated funds in the amount already calculated less any amount already received by the LEA for that fiscal year. In the event that entitlements for federally funded categorical programs are not yet calculated, each LEA's allocation will be equal to its prior year total allocation less any amount already received for the current fiscal year. In either case, the CDE will determine an appropriate schedule of apportioning funds based on the timing of the pandemic, federal requirements, and the state's cash flow needs. The funding calculation and methodology used for each apportionment will be documented, and applicable data will be stored in a manner that allows for full data backup and recovery to facilitate reconciliation of funds based upon resumption of the normal apportionment calculations.

State Categorical Funds

In the event that entitlements to state-funded categorical programs are already calculated, each LEA will be allocated funds based on the amounts already calculated less any amount already received by the LEA for that fiscal year. For most state-funded categorical programs where entitlements are already calculated, a schedule for apportionment would already be in place. This is the case for all of the "flexed" categorical programs as well as the programs paid through the special purpose apportionment. Funds for these programs would be apportioned on the schedule already in place. For state-funded categorical programs that are already calculated but do not have a schedule of apportionment in place at the time of the pandemic, the CDE will determine an appropriate schedule of apportioning funds based on the timing of the pandemic and the state's cash flow needs.

Under the proper legislative authority, in the event that entitlements have not yet been calculated, each LEA will receive an amount equal to that entity's prior year total allocations. The CDE will determine an appropriate schedule of apportioning funds based on the timing of the pandemic and the state's cash flow needs.

The funding calculation and methodology used for each apportionment will be documented, and applicable data will be stored in a manner that allows for full data backup and recovery to facilitate reconciliation of funds upon resumption of the normal apportionment calculations. For most state-funded categorical programs, entitlements are based upon funding received in a base year as opposed to pupil counts. For programs not calculated using base-year participation, upon resumption of normal business, the CDE will evaluate the fiscal impact of the pandemic on LEAs and may determine appropriate adjustments to LEA program entitlements. These adjustments will be made in the process of reconciling funding received during the pandemic against calculated entitlements to funding. Adjustments to entitlements may include reductions in the event that schools are closed and not serving students for extended periods of time.

Processing Apportionments

For revenue limit funding and programs paid through the principal apportionment, the CDE will continue to send payment schedules directly to the State Controller's Office (SCO) for payment. For federal and state-funded categorical programs, the CDE will continue to send payment schedules to CDE Accounting for processing, and CDE Accounting will send payment schedules for those programs to the SCO for payment. In both cases, the CDE will communicate with the SCO to establish the most appropriate manner in which to send the apportionment schedule information to the SCO with consideration given to the likely necessity of staff working from home or remote locations other than in the office.

Resumption of Activities

The CDE will revise entitlement calculations for the principal apportionment, federal programs, and categorical programs as required. All disbursements made under the pandemic calculation procedures will be reconciled to the revised entitlements, and adjustments will be made as necessary. In reconciling and revising entitlements, the CDE will take into consideration potential savings experienced by school districts as a result of student dismissals due to the pandemic.

Section 5: Accountability and Assessment Policies During Extended Student Dismissals Ordered by Local or State Health Officials

State Accountability and Assessment Programs

Orders issued by a public health officer to dismiss students for a significant period of time may have an effect on the administration of the following tests:

- Standardized Testing and Reporting (STAR) Program
- California High School Exit Examination (CAHSEE)
- California English Language Development Test (CELDT)
- Physical Fitness Test (PFT)
- California High School Proficiency Examination (CHSPE)
- National Assessment of Educational Progress (NAEP)
- General Educational Development (GED)

Results for the STAR and CAHSEE are used for calculating Adequate Yearly Progress (AYP), and the CELDT is used to calculate Annual Measurable Achievement Objectives (AMAOs) as mandated by the No Child Left Behind Act of 2001. In addition, STAR and CAHSEE are used in calculating the Academic Performance Index (API) mandated by the California Public Schools Accountability Act of 1999.

Based on the experiences following the Southern California wildfires in 2003 and Hurricane Katrina in 2005, the California Department of Education (CDE) recognizes that when testing operations are disrupted, state and federal officials make necessary arrangements to support school districts. Disruptions may impact test administration dates and delay in the scoring and reporting of test results.

Disruption in the testing schedule due to student dismissal policies may affect test contractors in the following manner:

- The inability to receive test materials for a period
- Delays in scoring answer books
- The inability to send test reports for a period
- Delays in providing the CDE with test results
- The inability to provide CDE with test results
- The number of answer documents scored drops significantly so that the contractor is unable to receive income as planned

In the event of such testing schedule disruptions due to a statewide student dismissal policy, the CDE will issue notice to LEAs of changes of test administration dates as well as the deadlines for test contractors' receipt of answer documents.

In the event of a testing disruption due to a regional, district-, or schoolwide student dismissal policy, LEAs are asked to contact the CDE's Standards and Assessment

Division to inform the CDE of the effects of the situation and request the change of the LEA's test administration dates as well as the deadlines for test contractors' receipt of answer documents.

Quality Education Investment Act (QEIA)

QEIA implementation may be affected in several ways if participating schools are ordered by a health officer to dismiss students due to a pandemic flu outbreak. The following guidelines will account for attendance anomalies at participating schools or breaks in service from monitoring agencies to address QEIA implementation in a fair and reasonable manner should a pandemic flu emergency arise.

Funding—QEIA funding is based on the participating school's prior-year CBEDS enrollment. The CDE would fund participating schools based on CBEDS enrollment figures adopted for the pertinent year, including any adjustments made by the CDE in annual enrollment figures resulting from a pandemic flu outbreak.

Program requirements—For QEIA program requirements that rely on monthly enrollment or attendance rates, including class-size reduction, counselor-to-student ratios, and increasing pupil attendance rates, participating schools would exclude attendance figures for months in which a pandemic flu emergency demonstrably affected student attendance rates and calculate annual attendance and enrollment rates based on data from all other months of the school year.

Program monitoring—County offices of education (COEs) responsible for monitoring QEIA schools may have their ability to provide this service interrupted by a pandemic flu outbreak. In that case, COEs would delay their monitoring process until they regain capacity to complete that work. However, regardless of when the monitoring is completed, the data used in the monitoring process will be from the period for which the monitoring was originally scheduled.

Statewide Data System

If a California state of emergency is declared in response to pandemic flu, which results in student dismissal policies or the closing of public kindergarten through grade twelve California schools for any period of time, the CDE shall (at the discretion of the State Superintendent of Public Instruction) move all impacted Data Management Division data submission timelines as necessary. Depending on specific local circumstances, the CDE may also reduce the amount of LEA data required for submission on a case-by-case basis.

Federal Accountability and Assessment Programs

In the event a public health officer issues a student dismissal policy, the CDE will work with the federal Department of Education (ED) to adjust reporting schedules to meet federal AYP requirements, as necessary. In 2005, the ED issued waivers to schools

affected by Hurricane Katrina so that they would not be held accountable for existing AYP requirements. The CDE believes the ED may provide a similar waiver process for schools whose testing schedules were affected by school closures due to pandemic influenza.

Comparability

Demonstrating comparability is a prerequisite for receiving Title I, Part A funds. Title I, Part A allocations are made annually; therefore, comparability is an annual requirement.

LEAs complete and submit their comparability reports each year during October. LEAs with schools that fail the initial comparability test are given additional time to hire staff, adjust student enrollment, provide additional funding, and correct or provide more current data to resolve non-comparability issues. LEAs must submit revised forms during December. For those LEAs that do not submit their reports by the October due date, the CDE will withhold their first apportionment of Title I, Part A funds in the fall. For those that do not submit their revised reports by the December due date, the CDE will have the LEAs' second apportionment withheld in early spring until such reports are submitted.

To complete the comparability reports, student enrollment data, the number of instructional staff, and their salaries must be collected on the same date. In the event of a pandemic-related student dismissal policy, the enrollment and staff data used should be that of a time period before or after the affected time frame that accurately reflects normal operations. If a school is closed during the time the reports are due to the CDE, the district is asked to contact the CDE, and a due date will be mutually decided upon based on when the school reopens.

Each year, the CDE conducts on-site visits to randomly selected LEAs to verify and validate submitted comparability data. If an LEA scheduled for an on-site visit is impacted by a student dismissal policy due to pandemic influenza issues, the visit will be rescheduled to a mutually agreed-upon future date.

Local Educational Agency (LEA) Plan or Plan Addendum

School closures or student dismissal policies ordered as the result of a pandemic influenza outbreak might result in a district's inability to revise its LEA Plan or Plan Addendum within the federally defined timelines of Title I, Part A, 20 U.S.C. §1116(b)(3) and/or implement its state technical assistance requirements as specified in California *Education Code* Section 52055.57. Should either of these conditions occur, the LEA should notify CDE's Accountability and Improvement Division, and the CDE will review and support evidence-based waivers to the State Board of Education for an extension of the time line. LEAs and schools may also be eligible to apply for a waiver (with certain restrictions) from the U.S. Secretary of Education, as permitted under Title I, Part D, Section 9401 of the United States Elementary and Secondary Education Act, as amended by the No Child Left Behind Act.

Section 6: Continuity Of Educational And Student Services During Extended Student Dismissals Ordered By Local Or State Health Officials

This section of the manual outlines how critical state functions that affect education will be maintained during a potential influenza outbreak

Impact of Pandemic Influenza on Food and Nutrition Services

On July 23, 2009, the United States Department of Agriculture (USDA) released a memorandum, "Responding to School Closings for H1N1 Outbreaks," which outlines how schools and community organizations may continue to provide reimbursable meals to low-income children during school closures or dismissals related to the H1N1 influenza virus. Additionally, this new policy waives the requirement for meals to be served in a congregate setting.

The USDA policy indicates that in the event that a public health officer closes a school or dismisses students, any school food authority (SFA) or eligible community organization that provides reimbursable meals to children may claim the meals served through the Seamless Summer Feeding Option (SSFO) or the Summer Food Service Program (SFSP).

Before a school or community organization can claim meals for reimbursement during a school closure or dismissal, the SFA must have an approved agreement to participate in the SSFO or SFSP, complete a waiver request, and plan to operate during a closure or dismissal.

For more detailed information regarding this policy, refer to the USDA guidance at <http://www.fns.usda.gov/disasters/pandemic/default.htm> (Outside Source). The CDE Flu Prevention Web page at <http://www.cde.ca.gov/ls/he/hn/fluinfo.asp> will soon reflect this guidance.

In the event of an influenza outbreak, the CDE will work with the USDA to develop policies to meet the food service needs of districts.

Title 7 of the *Code of Federal Regulations* (Section 210) requires that schools that participate in the National School Lunch Program (NSLP) must serve one nutritionally adequate meal each school day. Furthermore, the Child Nutrition Programs administered by the CDE's Nutrition Services Division (NSD) are designed to support institutional feeding operations. The authorizing statutes assume that programs will operate in a congregate setting, whether in schools or child care facilities.

During the outbreak of pandemic disease, public health officials may anticipate the need for “social distancing” as a means of minimizing the spread of illness by limiting person-to-person contact, and therefore may order school, district, or statewide student dismissal policies. Thus, when student dismissal policies are in effect, schools and other facilities may be closed, and operation of child nutrition programs will probably not be possible.

School facilities and equipment normally used in the operation of the NSLP, After School Snack Program, or the School Breakfast Program (SBP) may be used for other activities during a pandemic outbreak. In addition, in a **Presidentially declared disaster**, school districts that participate in the NSLP are allowed flexibility in providing meals to children or the community; however, during a pandemic outbreak, such flexibility to offer or provide meals will be determined by the local health officer (subject to such measures as social distancing and quarantine, for example). During a federally declared disaster, reimbursement for meals is contingent upon available funding in the State’s Reserve for Economic Uncertainties. For more information on disaster guidelines during federally declared disasters, please visit the CDE Disaster Relief Guidelines Web page at <http://www.cde.ca.gov/ls/nu/sn/disaster.asp>.

The NSD has received numerous phone calls regarding SFAs’ responsibility to provide school meals during school closures or student dismissals resulting from the H1N1 virus. The following are NSD’s answers to frequently asked questions.

- Q. If our school is closed or students are dismissed due to the H1N1 virus, is an SFA required to serve meals to students?
- A. No. According to California *Education Code (EC)* Section 49550, SFAs are required to serve one nutritionally adequate meal each school day; therefore, if a school is closed because of the H1N1 virus, the SFA is not required to serve school meals. However, the CDE encourages SFAs with significant numbers of low-income students to provide meals to these students under the new USDA policy described above.
- Q. During a school closure, can students come to school at the beginning of the week to pick up bag lunches to consume at home for the week, and can I claim reimbursement for those meals?
- A. If the SFA has been approved to claim meals through the SFSP or SSFO during a school closure, the SFA has the option to provide multiple meals during the closure. The SFA must ensure before the meals are claimed that the school was closed for the entire length of time (for example, five days’ worth of food is provided for a five-day school closure). Additionally, the food provided cannot be claimed for days that school would not normally be in session.
- Q. If the SFA either (1) applies to participate in the SSFO or SFSP during an H1N1 closure and provides a minimal number of meals to students due to “targeting,”

or (2) does not apply to provide meals in the SSFO or SFSP and provides no meals to students due to closure, can it recoup the lost meal reimbursement?

- A. Regardless of whether or not an SFA has exercised its option to provide school meals through the SFSP or SSFO during a school closure, the SFA may still be eligible to recoup lost meal reimbursement. *EC* Section 49505 allows schools that are closed due to a state or federally declared disaster to apply for reimbursement to offset fixed expenses, such as salaries that continue to accrue during the temporary closure. Please note that meal reimbursement is contingent upon available funding in the state's Reserve for Economic Uncertainties. Information regarding an SFA's responsibility to serve meals during a disaster is available on the CDE Disaster Relief Guidelines Web page at <http://www.cde.ca.gov/ls/nu/sn/disaster.asp>.

Q. Is the flu considered a disaster in California?

- A. According to the California Emergency Management Agency's Emergency Preparedness Branch, a pandemic flu outbreak can be considered a state disaster. Additional information is available on the California Emergency Management Agency Web page at <http://www.oes.ca.gov/WebPage/oeswebsite.nsf/Content/4CFBE30D371496C988257350005375A7?OpenDocument> (Outside Source).

Note: Although a pandemic flu outbreak can be considered a disaster, the H1N1 flu virus has not yet been declared a state of emergency/disaster; therefore, if a school is closed as a result of the H1N1 virus, at this time the SFA cannot claim reimbursement for meals served.

According to the USDA memo, states affected by natural disasters can make program commodities and other foods available for distribution to community groups or public agencies. SFAs should follow the procedures outlined below to obtain replacements for commodities lost or unfit for consumption as a result of the disasters. The CDE assumes the President would declare a national disaster in the event of a pandemic influenza outbreak.

Commodities Used for Congregate Feeding and Household Distribution

The USDA will replace all USDA commodities removed from inventory at the state or local level that are used for approved disaster congregate feeding or USDA-approved household distribution following a **Presidentially declared disaster**. The state agency is required to submit a written request for replacement within 30 days of the end of the disaster, although interim requests for replacement may be made.

Unfortunately, the USDA does not have the authority or the resources to replace non-USDA commodities used for these purposes. The USDA also cannot reimburse

organizations for the other costs, including labor costs, associated with commodity disaster feeding. This authority is dependent on Congressional action.

Local educational agencies (LEAs) will be notified to maintain adequate records for submission to their State Distributing Agency. The State Distributing Agency will report to the State Office of Emergency Services, which will submit state claims to the Federal Emergency Management Agency (FEMA). FEMA has the primary responsibility for providing disaster assistance.

Lost or Damaged Commodities

The USDA also does not have the authority to replace USDA or non-USDA commodities that are lost, destroyed, contaminated, or otherwise rendered unusable in a disaster due to flooding, fire, wind, power outage, or other causes. The state agency should contact the State Office of Emergency Services for possible assistance and should contact any private insurance companies to file a claim for the lost commodities. As stated above, LEAs will be notified to maintain adequate records for submission to their State Distributing Agency. The State Distributing Agency will report to the State Office of Emergency Services, which will submit state claims to FEMA.

The USDA's *Commodity Program Disaster Manual* can be downloaded at <http://www.fns.usda.gov/fdd/programs/fd-disasters/> (Outside Source). Contact your regional office with any questions.

Section 7: Impact of Pandemic Influenza on School Facilities

In the event of an influenza pandemic, school facilities and resources could be impacted in several ways.

- The *California Code of Regulations* allows enforcement officials to commandeer school facilities and school transportation vehicles for support of activities in mitigating disasters.
- School facilities may be used to set up infirmary or triage centers. In this situation, local health and enforcement officials will occupy school facilities as needed. If this occurs, LEAs should develop procedures to disinfect all surface areas and to flush ventilation systems prior to students' return to school.

Section 8: Impact of Pandemic Influenza on Special Education

In regard to students with special needs, district personnel must remember that underlying the Individuals with Disabilities Education Act (IDEA) is a prohibition of discrimination. If a school district does not provide services to its general student population during a student dismissal policy resulting from a public health emergency such as pandemic flu, it is not required to provide such services to its students with disabilities. However, if a district maintains programs for its general student population, it must also maintain programs for students with disabilities.

For this reason, a school district must create strategies that provide students with disabilities the same educational benefits provided for the general student population during a prolonged school closure. Such strategies could include the use of televised cable programming and Internet sites.

Further, if a district extends the school year for its general student population to compensate for instructional time lost during a schoolwide student dismissal policy as a result of an influenza outbreak, the school year must also be extended for students with disabilities. These requirements also apply for children who attend private schools.

Because services for students with disabilities are outlined in the individualized education program (IEP), each student's IEP team should reflect on how those services would be enacted in the event of a schoolwide student dismissal.

If school buildings are not accessible due to a public health emergency, assessments may need to be done through an IEP team teleconference, which would be held to discuss alternative programs that can be provided.

If it proves impossible to provide full services during a student dismissal policy, the IEP team must subsequently make a determination as to whether compensatory services are required. Key to this determination is whether the student who did not receive full services continued to make progress in his or her absence.

If a schoolwide or statewide student dismissal policy were ordered by a public health officer due to a flu pandemic, staff in the Special Education Division would provide technical assistance regarding these matters to county and district superintendents, charter school administrators, principals, Special Education Local Plan Area directors, and nonpublic school directors.

State Special Schools

The State Special School for the Blind and the State Special Schools for the Deaf will follow the following mitigation protocols to avoid spread of influenza:

- Consistently encourage students and staff to follow proper hygiene procedures recommended by the CDC. School personnel who are sick should stay home; students who are sick should be isolated from other students; students and staff members should cover their mouths and noses when they cough and sneeze; students and staff members should wash hands often and properly—for at least 20 seconds using soap and water; and school sites should have soap and/or hand sanitizers for both student and staff use.
- Establish a communication protocol with the student health system on campus for surveillance and reporting of any illness in the residence halls while students remain on campus.
- Establish evaluation centers for students who have been exposed to flu-like illness or exhibit flu-like symptoms.
- Identify on-campus housing for use as isolation units for students exhibiting flu-like symptoms who may not be able to be isolated off-campus before the regular Friday dismissal.
- Ensure that on-campus isolation areas do not have re-circulated air.
- Identify private bathrooms for use by people exhibiting flu-like symptoms in on-campus isolation areas.

If a flu outbreak occurs that affects the State Special Schools, the following procedures would be followed:

- If one or more students at the State Special Schools have flu-like symptoms, school administrators will immediately contact the local county health department and follow the recommendations of the county health officer. It is the local health officer who will determine whether students should be sent home or maintained on campus and whether the school should remain open.
- If the local health officer orders individual or schoolwide student dismissals, State Special Schools staff will notify parents and guardians to make arrangements to receive their children according to the usual Friday afternoon procedures and to maintain their children at home until the student dismissal policy is lifted.
- State Special Schools staff will instruct parents of ill students to contact their primary care providers. Students must be symptom-free for 24 hours before returning to school.
- Schoolwide student dismissal orders apply to day students as well. Day students must be maintained at home and will not be allowed on campus while the dismissal policy is in effect.

- If the local health officer determines that students should be maintained on campus rather than being sent home, the State Special Schools may call upon all staff to assist with student care and supervision. Designated isolation units in on-campus student health services facilities or other buildings will be maintained for students with influenza-like symptoms.
- State Special Schools will suspend all classes, field trips, work experience, and any other off-campus activities while the dismissal orders are in effect.

The state Diagnostic Centers would not be governed by school closures since social distancing does not apply. However, it is likely they would suspend activities until the school closure orders have been rescinded.

Section 9: Impact of Pandemic Influenza on Child Care (including Cal-SAFE)

This manual section applies to CDE contractors providing child care and developmental services to children and families through center-based programs, family child care home educational networks, Alternative Payment Programs, and Resource and Referral programs.

The CDE's Child Development Division (CDD) has defined the actions it will take before a pandemic occurs and has provided child care and development programs with information and resources they can use to prepare themselves for a pandemic. This information is contained in Management Bulletin 09-03, which is posted on the CDE Web page at <http://www.cde.ca.gov/sp/cd/ci/mb0903.asp>. Notification concerning this management bulletin was sent to CDE-funded child care programs via the list-serv in July 2009.

The Management Bulletin covers the following:

1. Pandemic flu planning and mitigation and instructions on how programs can respond to potential closures ordered by the State Public Health Officer.
2. Program funding during emergency closures ordered by the State Public Health Officer.
3. Resources to prepare for a pandemic emergency, including sample flu notifications that can be sent to staff and families, a flu prevention information toolkit, pandemic influenza planning checklists, and frequently asked questions and answers about pandemic flu.
4. Information from the California Childcare Health Program on the topic of pandemic flu, including reference to the California Childcare Health Program's November-December 2007 issue of *Child Care Health Connections*, which provides information for child care programs about pandemic flu and the steps programs can take to prepare for a pandemic flu emergency. The Child Care Health Program has also prepared Health and Safety Notes on Preparing for Pandemic Flu in Child Care Programs. These articles, as well as links to other helpful Web sites containing information about pandemic flu response planning, are posted on the Child Care Health Program Web site at <http://www.ucsfchildcarehealth.org/> (Outside Source).

California Code of Regulations (CCR) Title 22, Section 101174, requires that each licensed child care program develop a disaster and mass casualty plan. CDE-funded child care and development programs, centers, and family child care home education networks are required to practice emergency evacuation procedures regularly. Since large numbers of children may be in close proximity with one

another in child development programs, it is essential for programs to be prepared and to take effective precautions in the event of a pandemic flu emergency.

Elements of a Plan to Address a Pandemic Flu Emergency

In Management Bulletin 09-03, the CDD recommends that child development contractors develop a plan addressing the steps to be taken before, during, and after a pandemic occurs. Contractors can form a committee of staff members and parents to develop the plan. Elements to consider include:

1. Identify all of the ways a flu pandemic might affect the program, and develop a plan of action to respond.
2. Select a person to identify and monitor reliable sources of information concerning the pandemic.
3. Develop and strengthen infection control policies and action steps to support the maintenance of good health practices.
4. Develop a plan of communication with staff and families via different means of communication (such as e-mail, telephone hotlines, local radio, cable TV stations, etc.).

Closure Policy for CDE-Funded Child Care Facilities

EC Section 8271 gives the CDE the ability to fund child care programs if they are closed due to a disaster or unforeseen emergency. The CDD has the authority to ensure that contractors continue to receive apportionments in an emergency.

Using its authority in *EC* Section 8271, the CDE will continue apportionments to contractors during an influenza-related emergency closure ordered by a public health officer and will coordinate with other units and divisions within the CDE for timely payments.

In the event that a public health officer orders schools and child care facilities to dismiss students due to a public health emergency, the CDD will do all that it can to provide assistance. In order to help lessen the financial impact of emergency closures on our child development contractors, under the authority provided in *EC* Section 8271, contractors may request and receive reimbursement for days of non-operation due to an emergency closure of the school or child care facility.

Management Bulletin 09-16, entitled “Reduced Days of Operation or Attendance due to Emergency Conditions,” explains the CDE’s current policy related to *EC* Section 8271. The bulletin lists examples of circumstances beyond the control of operating agencies, including pandemics. Whenever a contracting agency’s days of operation or attendance are reduced for any of the reasons cited, that fact must be communicated to the CDD in

the form of a resolution adopted by the agency's governing board (or other entity for agencies not having a governing board). The resolution and transmittal must include specific information described in Management Bulletin 09-16. Questions concerning Management Bulletin 09-16 should be directed to the agency's assigned Field Services Consultant.

In the event of a pandemic emergency, the CDD will coordinate with the California Department of Social Services' Community Care Licensing Division to ensure that all child care centers and family child care homes, both those operating under Title 5 and those operating under Title 22 regulations, receive essential and critical information regarding the pandemic. The CDD will provide as much guidance to child development contractors as possible and communicate with them regularly via the existing list-serv.

Section 10: Impact of Pandemic Influenza on the Healthy Start Program

There are school-based Healthy Start programs in every county that have on-site health resource centers and/or a well-established infrastructure to connect students and their families to local support and services for physical, dental, vision, psychological, and emotional health needs. In addition, many Healthy Start programs have clothing banks, washers and dryers, access to food resources, service links for homeless students, and an existing telephone and/or e-mail network that enables them to coordinate integrated, non-duplicative services in times of stress and local emergencies. Many rural children receive all of their health care services at the local school health centers. Healthy Start can provide resources to LEAs to help them respond to a pandemic situation. The CDE Healthy Start Web site at <http://www.cde.ca.gov/ls/pf/hs/> provides information and a link to the University of California at Davis-based Healthy Start Field Office Web site, which houses the Healthy Start site directory at <http://hsfo.ucdavis.edu/directory/> (Outside Source).

Section 11: Impact of Pandemic Influenza on After School Programs

This manual section applies to CDE grantees providing after school programs through the After School Education and Safety Programs and the 21st Century Community Learning Center Program.

In the event of a student dismissal order issued by a local or state health official due to pandemic influenza, after school programs taking place at impacted school sites will also be closed during the period of time that the student dismissal policy is in effect. If an after school program operates at a site other than the site of the regular day school, the after school program must also close to mitigate the spread of disease. It is the responsibility of the corresponding regular day school site to notify the after school program site of the student dismissal policy due to a public health emergency. After school programs should continue to adhere to the processes in place to report program closures due to emergencies and the loss of attendance for those days.

Using its authority in *EC* Section 8482.8, the CDE will continue payments to grantees during an emergency closure and will coordinate with other units and divisions within the CDE for timely payments.

Section 12: Impact of Pandemic Influenza on Curriculum Support Programs

Public School Choice (Choice) and Supplemental Educational Services (SES)

Influenza-related student dismissals ordered by a public health officer that last for an extended period of time may affect a school's ability to meet Title I-related timelines with regard to the following:

- Timely notification of parents of a school's Program Improvement (PI) status (No Child Left Behind [NCLB], Section 1116[b][6]) and the availability of Choice (NCLB, Section 1116[b][1][E]) and/or SES (NCLB, Section 1116[b][5][B]).
- Parental selection of a transfer for Choice in PI and/or an SES provider.
- LEA contracts with SES providers for service.
- SES provider accountability reporting to the CDE.
- Requirement for the revision and implementation of the Single Plan for Student Achievement by a school within 90 days of its identification for PI (NCLB, Section 1116[b][3][A]).
- Suspension of SES service for students.

In the event of a long-term student dismissal policy ordered by a public health officer, California education officials would apply to the U.S. Department of Education (ED) with a request to waive time line requirements, and LEAs and schools would be encouraged to submit their requests for waivers of the federal time lines to the State Board of Education (SBE). In addition, LEAs would be encouraged to seek a waiver of Categorical Program Monitoring for the school year in question.

Education for Homeless Children and Youth Programs

In the event of a pandemic influenza, McKinney-Vento Education for Homeless Children and Youth Act grantees would continue to be funded according to the protocol established by the CDE School Fiscal Services Division. Currently, the CDE and the ED do not provide for flexibility through waiver authority. The ED intends to seek authority for further flexibility from Congress through the legislative process. Useful program guidance on existing flexibility on some issues, such as the placement of homeless students (which may arise during a severe pandemic), can be found on the ED's Web page at <http://www.ed.gov/programs/homeless/guidance.doc> (Outside Source).

LEAs need to keep in mind that homeless adults, families, and children may be at a higher risk of contracting influenza because of crowded living conditions, stressed

immune systems, and high mobility. This is also the case for other communicable diseases. The rapidly developing pandemic influenza epidemic calls for increased precautions and vigilance.

The National Health Care for the Homeless Council strongly recommends that local homelessness constituencies, including shelter, housing, and health care and service providers, engage with local emergency planning authorities to ensure that the particular risks for and needs of homeless people are addressed in emergency planning and responses.

English Learner Acquisition and Development Pilot Program (AB 2117)

A substantial student absence from school due to pandemic influenza could significantly disrupt schools implementing a promising practice and could potentially keep grantees from fully implementing the promising practice for which they applied. Interruptions in instructional time and delivery of promising practice could affect the data collected via the grant program. The CDE may adjust the data obtained from local and state assessments in order to account for the lapse of time in instruction.

Reading First

Based upon the amount of time students were absent due to influenza-like illnesses, LEAs should adjust pacing schedules at each site level to cover all required curricular materials. The CDE would adjust professional development for teachers and coaches.

Section 13: Impact of Pandemic Influenza on Professional Development Programs

Administrator Training Program (AB 430)

An influenza outbreak would have minimal impact on this professional development program, unless a participating administrator is in his or her final year for completion. In that case, the administrator's district could be negatively impacted if it had to be billed back for funds already received. The CDE would create a policy to provide for an extension of the two-year requirement to complete the program. Students would not be affected.

Beginning Teacher Support and Assessment (BTSA)

Access to students is critical, although the program is flexible enough to provide opportunities for participating teachers to complete their induction experience even if there was a disruption due to an influenza pandemic. The participating teachers would have to be able to design and deliver instruction to students in alternative formats given the situation, as the program requires that participating teachers demonstrate competencies in the following areas:

- teaching special populations;
- teaching English learners;
- supporting equity, diversity, and access to the core curriculum;
- creating a supportive and healthy environment for student learning;
- using technology to support student learning; and
- teaching the core academic content and subject specific pedagogy.

Local BTSA program directors have the authority to adjust participating teacher's individual programs as long as all teacher induction standards are still met.

California Math Science Partnership (CaMSP)

Most of the intensive hours associated with this professional development program are conducted by teachers during the summer months; therefore, dismissing students in the event of a pandemic should not affect this portion of the program. As the remaining intensive hours and classroom follow-up are done during the school year, disruption at any point in the year would most likely shift a very tightly scheduled CaMSP project design. A shift in project design could negatively impact the research results these grants are designed to achieve.

In the case of a student dismissal order issued by a public health officer due to a public health emergency, the use of technology may not be viable for conducting teacher intensive hours (based upon the design of the project). Classroom follow-up sessions, by the nature of the activity, are dependent on lessons facilitated by teachers and observed by other teachers and cannot be done remotely. Completion of this aspect of

the program may be completed at the time normal school operations are resumed. In order to account for the lapse of time in instruction, the CDE may adjust the data gained from local and state assessments and used to determine the impact or evaluation of the professional development program on student achievement.

Section 14: Distance-Learning Options During Extended Student Dismissals Ordered by Local or State Health Officials

In the event of an influenza-related school, district, or statewide student dismissal policy ordered by a public health official, LEAs need to develop distance-learning programs to ensure that students continue to receive instruction while a student dismissal policy is in effect. This section presents a variety of ideas for distance-learning options that LEAs may choose to implement.

Several existing curriculum programs and projects have videotaped demonstration lessons in various subject areas. These lessons could potentially be aired on public broadcast stations during student dismissals to continue instruction for students or could be used by professional development programs to facilitate a distance-learning process for program participants. Some coordination would be required on the part of LEAs to make the materials utilized in the lessons, such as worksheets or texts, available to students. These materials could be distributed in advance, posted online, or sent out to parents via e-mail.

County offices of education (COEs) or school districts may also decide to use traditional distance-learning programs for their students. A number of successful models are already in place for distance-learning programs that can be conducted either online or by mail. Such programs could be quickly and easily utilized during a student dismissal if students were required to register for the program along with initial school registration. COEs may also have tutoring programs in place that could be modified to provide necessary instruction for students during a student dismissal.

Most districts require their teachers to have “emergency lesson plans” ready to be used by a substitute in the event of an unplanned teacher absence. Schools or districts could compile these individual lesson plans by grade-level and then distribute them to students in the event of an extended student dismissal. This compilation of lesson plans could facilitate the development of several weeks’ worth of instructional materials and assignments and would ensure that all students within a grade level at a school or district would receive the same instruction, focused on the same standards, for the period of the student dismissal. Schools or districts could also compile Independent Study Packets like those that are commonly given to students who are absent from school due to an extended vacation.

To facilitate continued reading time, LEAs could prepare leveled and decodable sets of books to send home with students in the event of a student dismissal. LEAs often have surplus or obsolete books that are still usable and good for reading practice. Several books could be sent home with each student, along with easy-to-follow suggestions for parents to encourage and support reading practice during a student dismissal. Students and families could also exchange sets of books among themselves to extend the

amount of reading practice. This same method could be used for other subject areas as well.

LEAs may also use these suggested methods of distance learning to facilitate continued language acquisition for English learners during a student dismissal. Learning programs or activities that provide exposure to written and spoken English may help compensate for classroom time lost due to a student dismissal.

APPENDIX

CALIFORNIA EDUCATION CODE

School Safety Plan

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A district or county office may work with the Office of Emergency Services and the Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The district or county office shall cooperate with the public agency in furnishing and maintaining the services as the district or county office may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion

recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For the purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

(G) Procedures for safe ingress and egress of pupils, parents, and school employees to and from school.

(H) A safe and orderly environment conducive to learning at the school.

(I) The rules and procedures on school discipline adopted pursuant to Sections 35291 and 35291.5.

(J) Hate crime reporting procedures pursuant to Chapter 1.2 (commencing with Section 628) of Title 15 of Part 1 of the Penal Code.

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety.

Fiscal Consequences of an Epidemic

8482.8. (a) If there is a significant barrier to pupil participation in a program established pursuant to this article at the school of attendance for either the before school or the after school component, an applicant may request approval from the Superintendent, prior to or during the grant application process, to provide services at another schoolsite for that component. An applicant that requests approval shall describe the manner in which the applicant intends to provide safe, supervised transportation between schoolsites; ensure communication among teachers in the regular school program, staff in the before school and after school components of the program, and parents of pupils; and align the educational and literacy component of the before and after school components of the program with the regular school programs of participating pupils.

(b) For purposes of this article, a significant barrier to pupil participation in the before or after school component of a program established pursuant to this chapter means either of the following:

(1) Fewer than 20 pupils participating in the component of the program.

(2) Extreme transportation constraints, including, but not limited to, desegregation bussing, bussing for magnet or open enrollment schools, or pupil dependence on public transportation.

(c) In addition to the authority to transfer funds among school programs pursuant to Sections 8483.7 and 8483.75, and in addition to the flexibility provided by subdivisions (a) and (b), a program grantee that is temporarily prevented from operating a program established pursuant to this article at the program site due to natural disaster, civil unrest, or imminent danger to pupils or staff may shift program funds to the sites of other programs established pursuant to this article to meet attendance targets during that time period.

(d) If a program grantee is temporarily prevented from operating its entire program due to natural disaster, civil unrest, or imminent danger to pupils or staff, the department may recommend, and the state board may approve, a request by the grantee for payment equal to the amount of funding the grantee would have received if it had been able to operate its entire program during that time period.

(e) Upon the request of a program grantee, the state board may approve other unforeseen events as qualifying a program grantee to use the authority provided by subdivisions (c) and (d).

41422. A district that is prevented from maintaining its schools during a fiscal year for at least 175 days or is required to operate sessions of shorter length than otherwise prescribed by law because of fire, flood, earthquake, or epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue that order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the governing board of the school district and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 full-length days.

46390. Where a school in a district maintaining more than one school is closed for a part of a term by order of a city or county board of health or of the State Board of Health, or because of fire, flood, impassable roads, epidemic, or other emergency, or by an order provided for in Section 41422, the average daily attendance of the school shall be estimated separately, as provided in Section 46392, and added to the average daily attendance of the other schools of the district.

46392 (a) Whenever the average daily attendance of any school district, county office of education, or regional occupational center or program during any fiscal year has been materially decreased during any fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent of Public Instruction by affidavits of the members of the governing board of the school district or county office of education, and the county superintendent of schools:

- (1) Fire.
 - (2) Flood.
 - (3) Impassable roads.
 - (4) An epidemic.
 - (5) An earthquake.
 - (6) The imminence of a major safety hazard as determined by the local law enforcement agency.
 - (7) A strike involving transportation services to pupils provided by a nonschool entity.
 - (8) An order provided for in Section 41422.
- (b) In the event a state of emergency is declared by the Governor in a county, any decrease in average daily attendance in the county below the approximate total average daily attendance that would have been credited to a school district, county office of education, or regional occupational center or program had the state of emergency not occurred shall be deemed material. The superintendent shall determine the length of the period during which average daily attendance has been reduced by the state of emergency. This period, which is determined by the superintendent, shall not extend into the next fiscal year following the declaration of the state of emergency by the Governor, except upon a showing by a school district, county office of education, or regional occupational center or program, to the satisfaction of the superintendent, that extending the period into the next fiscal year is essential to alleviate continued reductions in average daily attendance attributable to the state of emergency.
- (c) The average daily attendance of the district, county office of education, or regional occupational center or program for the fiscal year shall be estimated by the superintendent in a manner that credits to the school district, county office of education, or regional occupational center or program for determining the apportionments to be made to the district, county office of education, or regional occupational center or program from the State School Fund approximately the total average daily attendance that would have been credited to the school district, county office of education, or regional occupational center or program had the emergency not occurred or had the order not been issued.
- (d) This section applies to any average daily attendance that occurs during any part of a school year.

State Technical Assistance Requirements

52055.57 (a) (1) Provisions that are applicable to local educational agencies under this section are for the purpose of implementing federal requirements under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 *et seq.*). The satisfaction of these criteria by local educational agencies that choose to participate under this article shall be a condition of receiving funds pursuant to this section.

(2) The department shall identify local educational agencies that are in danger of being identified within two years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001, and shall notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment.

(3) The self-assessment shall identify deficiencies within the operations of the local educational agency, and the programs and services of the local educational agency.

(4) A local educational agency identified pursuant to paragraph (2) is encouraged to revise its local educational agency plan based on the results of the self-assessment.

(5) The program described in this subdivision shall be referred to as the "Early Warning Program."

(b) (1) A local educational agency identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 shall do all of the following:

(A) Conduct a self-assessment using materials and criteria based on current research and provided by the department.

(B) No later than 90 days after a local educational agency is identified for program improvement, contract with a county office of education or another external entity after working with the county superintendent of schools, for both of the following purposes:

(i) Verifying the fundamental teaching and learning needs in the schools of that local educational agency as determined by the local educational agency self-analysis, and identifying the specific academic problems of low-achieving pupils, including a determination of why the prior plan of the local educational agency failed to bring about increased pupil academic achievement.

(ii) Ensuring that the local educational agency receives intensive support and expertise to implement local educational agency reform initiatives in the revised local educational agency plan as required by the federal No Child Left Behind Act of 2001.

(C) Revise and expeditiously implement the local educational agency plan to reflect the findings of the verified self-assessment.

(D) After working with the county superintendent of schools or an external verifier, contract with an external provider to provide support and implement recommendations to assist the local educational agency in resolving shortcomings identified in the verified self-assessment.

(2) (A) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency described in paragraph (1) annually may receive fifty thousand dollars (\$50,000), plus ten thousand dollars (\$10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 within the local educational agency, for the purpose of fulfilling the requirements of this subdivision. If funding is not provided in the annual Budget Act or other statute, local educational agencies shall not be subject to the requirements of subparagraphs (B) and (D) of paragraph (1).

(B) Subject to the availability of funds appropriated in the annual Budget Act for this purpose, a local educational agency identified as a program improvement local educational agency during the 2005-06 fiscal year, shall receive priority for funding based upon the performance of the socioeconomically disadvantaged subgroup of the local educational agency on the Academic Performance Index. Priority for funding shall be provided to the lowest performing local educational agencies that are identified as program improvement local educational agencies. It is the intent of the Legislature that

funds apportioned pursuant to this paragraph be used to support activities identified in paragraph (1).

(C) It is the intent of the Legislature that a local educational agency identified as a program improvement local educational agency receive no more than two years of funding pursuant to this paragraph.

(c) A local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 shall be subject to one or more of the following sanctions as recommended by the Superintendent and approved by the state board:

(1) Replacing local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(2) Removing schools from the jurisdiction of the local educational agency and establishing alternative arrangements for the governance and supervision of those schools.

(3) Appointing, by the state board, a receiver or trustee, to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

(4) Abolishing or restructuring the local educational agency.

(5) Authorizing pupils to transfer from a school operated by the local educational agency to a higher performing school operated by another local educational agency, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described under this paragraph.

(6) Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for high-priority pupils.

(7) Deferring programmatic funds or reducing administrative funds.

(d) (1) The department shall develop, and the state board shall approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) shall be evaluated to determine the pervasiveness and severity of its performance problems and the sanction to be imposed.

(2) A local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) may apply for a one-year, nonrenewable grant of federal improvement funding to assist in its improvement process and may expend that grant funding over the time period allowable under federal law. It is the intent of the Legislature to integrate federal funding that is available for this purpose, including, but not limited to, funding for program improvement and school improvement grants pursuant to Section 6303 of Title 20 of the *United States Code*.

(3) The amount of a grant for a local educational agency with extensive and severe performance problems shall be one hundred fifty thousand dollars (\$150,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with moderate performance problems shall be one hundred thousand dollars (\$100,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with minor

or isolated performance problems shall be fifty thousand dollars (\$50,000) per school identified for program improvement pursuant to federal law.

(4) A local educational agency that receives funding under this subdivision shall use the funds in accordance with Section 6316(b) and (c) of Title 20 of the *United States Code*. Pursuant to the technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6312(b) and (c) and Section 6317 of Title 20 of the *United States Code*, the Superintendent may recommend, and the state board may approve, that a local educational agency contract with a district assistance and intervention team or other technical assistance provider to receive guidance, support, and technical assistance. A district intervention and assistance team or other technical provider with which a local educational agency is required to contract shall perform the duties specified in subdivision (e) of Section 52059.

(5) Notwithstanding any other law, a local educational agency that receives funding under this subdivision or that receives other federal funds for school improvement shall not use those funds to compensate a receiver or trustee assigned by the state board pursuant to paragraph (3) of subdivision (c).

(e) A local educational agency that has received a sanction under subdivision (c) and has not exited program improvement under the federal No Child Left Behind Act of 2001 shall appear before the state board within three years to review the progress of the local educational agency. Upon hearing testimony and reviewing written data from the local educational agency, the district assistance and intervention team, or county superintendent of schools, the Superintendent shall recommend, and the state board may approve, an alternative sanction under subdivision (c), or may take any appropriate action.

(f) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency that is not identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 may annually receive up to fifteen thousand dollars (\$15,000) per school identified as a program improvement school for the purposes of supporting schools identified as program improvement schools in the local educational agency and determining barriers to improved pupil academic achievement. That local educational agency shall receive no less than forty thousand dollars (\$40,000) and no more than one million five hundred thousand dollars (\$1,500,000) for those purposes. The Superintendent shall compile a list that ranks each local educational agency based on the number of, and percentage of, schools identified as program improvement schools and shall provide this funding to local educational agencies equally from each list until all funds appropriated for this purpose are depleted. These funds shall be provided for no more than three years.

(g) For purposes of this article, "local educational agency" means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

8271. In the event that operating agencies are unable to operate due to incomplete renovations authorized by administrating state agencies, or due to circumstances beyond the control of the operating agency, including earthquakes, floods, or fire, such

programs shall not be penalized for incurred program expenses nor in subsequent annual budget allocations.

The following sections of California law clarify the roles and responsibilities of public employees and volunteers in the event of emergency.

GOVERNMENT CODE

Disaster Service Workers

3100. It is hereby declared that the protection of the health and safety and preservation of the lives and property of the people of the state from the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and resources is of paramount state importance requiring the responsible efforts of public and private agencies and individual citizens. In furtherance of the exercise of the police power of the state in protection of its citizens and resources, all public employees are hereby declared to be disaster service workers subject to such disaster service activities as may be assigned to them by their superiors or by law.

3101. For the purpose of this chapter the term "disaster service worker" includes all public employees and all volunteers in any disaster council or emergency organization accredited by the California Emergency Council. The term "public employees" includes all persons employed by the state or any county, city, city and county, state agency or public district, excluding aliens legally employed.

8655. The state or its political subdivisions shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform, a discretionary function or duty on the part of a state or local agency or any employee of the state or its political subdivisions in carrying out the provisions of this chapter.

HEALTH AND SAFETY CODE

Good Samaritan Law

1799.100 In order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, or certifies those people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses, as defined, in emergency medical services, shall be liable for any civil damages alleged to result from those training programs.

1799.102 No person who in good faith, and not for compensation, renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.