

Last night, the Governor's Administration announced a [Safety Review Process](#) for schools and local educational agencies (LEAs) asserting that compliance with the January 14<sup>th</sup> K-12 Schools Guidance (Guidance) would mean offering fewer students in-person instruction than previously planned. As described, the process raised several questions that we reached out to the Administration to clarify. We have included that clarification below but also want to make sure you were aware of the quickly approaching **February 17<sup>th</sup> (next Wednesday)** deadline established under this new process. This is a particularly swift turnaround considering Monday is a holiday.

### **Who can Apply for a Safety Review?**

This new Safety Review Process establishes two situations where an individual school, or a school district on behalf of a group of schools within the district, may request a safety review:

#### **Situation 1** – Applies If the LEA:

1. Is currently open;
2. Was providing in-person instruction as of January 14, 2021; and
3. Has determined that, after making good-faith efforts to meet the minimum student-to-student physical distancing guidelines in the Guidance, that meeting that minimum would require students receiving in-person instruction as of January 14, 2021 to be served solely through distance learning.

If an LEA in this situation would like to request a safety review, it must submit a [letter of intent](#) (Letter) to [K12SafetyReview@cdph.ca.gov](mailto:K12SafetyReview@cdph.ca.gov) by next **Wednesday, February 17<sup>th</sup> by 5 pm**. If an LEA submits its Letter by this deadline, it may then continue to provide in-person instruction using the same student-to-student distancing that was in place with Local Health Department approval as of January 14<sup>th</sup>, while it awaits a Review Request determination from the state's Safe Schools for All Team.

We have confirmed with the Administration that if an LEA is able to continue their in-person instruction in compliance with the 4 ft minimum student-to-student physical distancing requirement under the Guidance, they do not have to submit a letter of intent. Only LEAs that are currently operating in person that are unable to meet the 4 ft physical distancing requirement without current

in-person students having to shift to fulltime distance learning would need to submit their letter of intent by February 17<sup>th</sup>.

**Situation 2** – Applies if, as of January 14<sup>th</sup>, the LEA:

1. Was in the active process of bringing back additional students for in-person instruction as part of a phased-in reopening process consistent with being considered “open” under the July 17<sup>th</sup> schools guidance
2. Had never offered all students in at least one grade the option to return for in-person instruction for at least part of the school week while the county was in the Red Tier or lower; and
3. Does not meet the revised definition of “open” set forth in the Guidance

According to the Administration, this situation covers those LEAs that had started to bring back prioritized groups of students (ex. those with learning challenges, limited wi-fi, special education students) in a phased in reopening plan when their counties were in the Red Tier but, because of their focus on high risks kids, had never offered in-person instruction to a full grade. These LEAs are distinguished from LEAs that were offering in-person instruction pursuant to the cohort guidance.

Similar to Situation 1, an LEA in this situation must submit a Letter declaring its intent to request a Safety Review. However, unlike Situation 1, there is no deadline by which an LEA must submit their Letter under Situation 2 and, even after the Letter has been submitted, the LEA must continue to comply with the Guidance until it receives a determination on its Safety Review Request.

It is also important to note that LEAs that previously received a waiver through the prior Elementary School Waiver process but never reopened before the release of the Guidance and that do not currently meet the criteria to reopen for in-person instruction are not eligible to request a safety review under this process. Last night’s announcement from the Administration was clear that this review process does not extend to these LEAs because they “were not able to identify a set of criteria that would allow for a robust and transparent safety review based on a track record of the schools having been open and operating safely.”

**What does the Safety Review Process Entail?**

Under either Situation, once an LEA has submitted its Letter of Intent, it will receive approval or denial of its Letter within one business day. If the Letter is approved, a Safety Review Request Form (Form), along with instructions on how to submit the request, will be sent to the LEA contact email included in the Letter.

An LEA then has 10 business days from when the Form is sent to submit its full Safety Review Request. The Administration’s announcement did not detail

what the Safety Review Request would entail, just that the process would require “evidence of high safety standards.”

Once an LEA has submitted its full Safety Review Request, the state’s Safe Schools for All Team has 7 business days from date of submission to approve or deny the Request, or request additional information from the LEA.

We will continue to provide updates on this process as more information becomes available. Please reach out to any of us here at Capitol Advisors if you have any questions.

Best,  
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