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## FISCAL REPORT

PUBLIC EDUCATION'S POINT OF REFERENCE FOR MAKING EDUCATED DECISIONS

### AB 86's Most Frequently Asked Questions

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**Q.** How do the changes to the color tiers established by the [Blueprint for a Safer Economy](#) (see [“COVID-19 Blueprint Updated to Ease Reopening of Economy”](#) in the March 2021 Fiscal Report) impact local educational agencies (LEAs) trying to meet the funding conditions of the In-Person Instruction Grants?

**A.** The changes to the color tiers do not change the requirements for receiving the In-Person Instruction Grant, but it will impact how soon an LEA will be required to offer in-person instruction to all elementary students and to all students in at least one secondary grade level. With the positive trajectory of COVID-19 case rates and the increasing number of Californians that are vaccinated,

counties are expected to reach the red tier soon if they haven't already. LEAs should anticipate and plan for being in the red tier by April 1 if they want to ensure they receive the full amount of the In-Person Instruction Grant.

**Q.** Assembly Bill (AB) 86 includes language that reduces an LEA's In-Person Instruction Grant allocation. Can you please elaborate on this 1% reduction?

**A.** In order to receive the full allocation of the In-Person Instruction Grant, LEAs must offer in-person instruction by April 1 to all the students required by the statute in accordance with the color tier they are in (see "[Deal Reached on Reopening Grants](#)" in the March 2021 *Fiscal Report*). For example, if an LEA is in the red tier, then in-person instruction must be offered to all the prioritized student groups in all grade spans, all elementary students, and students in at least one secondary grade level. If in-person instruction is not offered to all these students by April 1, then the grant amount will be reduced by 1% per day between April 1 and May 15 until all the required students are able to access in-person instruction.

Many LEAs are planning to do a phased reopening after spring break. In this situation, the grant will be reduced even if some of the required students are offered in-person instruction. For example, if you are an elementary school district in the red tier and you start a phased reopening on April 5 after spring break but don't offer in-person instruction to all required students until April 19, then your grant will be reduced by 10% because of the two weeks that only some, and not all, of your students were offered in-person instruction.

As we reported in our March 2021 *Fiscal Report* article, "[Ask SSC . . . Will Spring Break Harm Our In-Person Instruction Grant Fund?](#)" LEAs who have a spring break that occurs on or after April 1st will not be penalized for not offering in-person instruction on those days.

**Q.** Please explain when the In-Person Instruction Grant is subject to forfeiture.

**A.** An LEA's grant will be forfeited in two situations—if it fails to offer in-person instruction to all the required students by May 15 or if it fails to provide continuous in-person instruction through the end of the school year. To illustrate the latter circumstance, if your LEA is offering in-person instruction as required by AB 86 and your LEA reverts to distance learning for a period of time without a local or state health order requiring the order, then your entire grant amount would be forfeited. Importantly, AB 86 recognizes the continued need for LEAs to implement hybrid instructional models to accommodate health mitigation measures for students and staff. Therefore, LEAs that use hybrid models are deemed in compliance with AB 86.

**Q.** If I've already reopened for in-person instruction or I have a plan to reopen, and my in-person instruction offerings are not in compliance with AB 86, am I eligible to receive the In-Person Instruction Grant?

A. You are eligible to receive the In-Person Instruction Grant only if in-person instruction is offered to all the required students. For example, if you are a unified school district in the red tier, and you are only offering in-person instruction to all your elementary students, then in order to receive the grant, you must expand in-person instruction to at least one of your secondary grades by May 15. There is no partial grant amount for serving some but not all of the required students.

Q. Can you please clarify the paraprofessional requirement for the Expanded Learning Opportunity Grant? Are LEAs required to hire additional paraprofessionals, or can we use allocation of funding for the paraprofessionals we currently have on staff?

A. The Expanded Learning Grant requires an allocation of at least 10% of the LEA's apportionment for paraprofessional staffing. For purposes of this provision, paraprofessionals are defined in [Education Code Section \(EC §\) 45330](#). The 10% requirement can be met by hiring additional paraprofessionals, and/or allocating the funding for existing paraprofessional staff. To reflect the temporary nature of the Expanding Learning Grant funding, temporary staffing methods described as classified short-term staffing, which is enumerated in [EC § Section 45103](#), may be applied. In addition, an increase in full time employment for current part-time paraprofessional employees can be applied towards the 10% requirement; however, it is recommended that this method is approached with caution to avoid long-term fiscal implications resulting from short-term staffing adjustments.

In the event that hiring practices are not sufficient to expend the 10% minimum, the statute does not prohibit scoring the 10% for paraprofessionals against current staffing, but all expenditures must align with the allowable uses of the Expanded Learning Grant codified in [EC § 43522\(b\)](#).

Q. The funding for both the In-Person Instruction Grant and the Expanded Learning Opportunity Grant will be appropriated in May and August 2021. What happens if my LEA does not qualify for the In-Person Instruction Grant? Will the money be taken back?

A. AB 86 does not include an opt-out provision for LEAs. All eligible LEAs will receive the May appropriation of the In-Person Instruction Grant and the Expanded Learning Opportunity Grant. Nonclassroom-based charter schools are not eligible for the In-Person Instruction Grant. The May appropriation will be 50% of the calculated total an LEA is eligible to receive for each grant, using 2020–21 First Principal Apportionment certification data and 2020–21 preliminary California Longitudinal Pupil Achievement Data System (CALPADS) Fall 1 data. For the In-Person Instruction Grant, LEAs are required to certify to the California Department of Education by June 1, 2021, that the required students were offered in-person instruction and the dates that in-person instruction commenced. This certification data, along with 2020–21 Second Principal Apportionment certification data, and 2020–21 final CALPADS Fall 1 data will be used to calculate the August appropriations. If an LEA does not comply with the In-Person Instruction Grant requirements by May 15 and is required to forfeit the grant, then the May appropriation for the In-Person Instruction Grant will be applied against the remaining balance owed for the August payment of the Expanded Learning Opportunity Grant.