

August 12, 2020

Wilma J. Wooten, M.D., M.P.H.
Public Health Officer and Director
Public Health Services
County of San Diego Health and Human Services Agency
1600 Pacific Highway, San Diego, CA 92101

Dear Dr. Wooten,

Because of concerns around urgency and equity, I am writing to inform you of my decision to advise recipients of After-School Education and Safety (ASES) and 21st Century Community Learning Centers (CCLC) funds that the San Diego County Office of Education (SDCOE) is authorizing the use of these funds to provide school-based enrichment programs for small cohorts of students while their schools are limited to distance learning by the local public health order.

Further, I will also advise school districts and charter schools that SDCOE is unaware of any prohibition that should prevent them from conducting in-person assessment and/or therapy services for individual students by appointment on campus when virtual means are not appropriate for these purposes.

San Diego County schools are beginning the 2020-21 school year, meaning these issues have taken on increasing urgency. We cannot delay any further while waiting for clarifying language from the state; we must act now. It is a matter of equity for our most vulnerable students.

Using ASES and CCLC Funds to Provide School-Based Enrichment Programs

The [COVID-19 and Reopening In-Person Learning Framework for K-12 Schools in California, 2020-2021 School Year](#) issued by the California Department of Public Health (CDPH), limits schools in local health jurisdictions (LHJ) that are on the state monitoring list to providing instruction through distance learning.

If the LHJ has been on the monitoring list within the last 14 days, the school must conduct distance learning only, until their LHJ has been off the monitoring list for at least 14 days.

The local public health order prohibits schools from holding classes on campus and refers directly to the CDPH's requirement that schools limit instruction to distance learning.

All public, charter and private schools shall not hold classes on the school campus, and shall conduct distance learning only as required by *COVID-19 and Reopening In-Person Learning*

Framework for K-12 Schools in California, 2020-2021 School Year issued by the California Department of Public Health on July 17, 2020 available at {<https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID19/Schools%20Reopening%20Recommendations.pdf>}.

The CDPH does not prohibit schools from operating other supportive programs for students during this period and does not provide any additional guidance concerning the times of operation, program limitations, or content.

The CDPH's reopening framework and the local public health order focus on instructional format. Neither limits the provision of other school-based services.

ASES and CCLC programs are publicly funded academic-enrichment programs that provide safe, supportive, and constructive alternatives for students from low-income households. These programs are normally provided before and after school hours, but in light of the current crisis, schools have the flexibility to operate ASES and CCLC programs during school hours while their schools are in distance learning.

ASES and CCLC are not instructional programs.

- Students are not required to attend.
- They are not enrolled in classes or a course of study.
- They do not receive grades or credit.

While school employees sometimes work in these programs, most are provided by community-based partners such as the YMCA and Boys & Girls Club.

The enrichment and support provided by ASES and CCLC is similar in structure to many day camps; however, these school-based programs are required to adhere to higher standards of services, which are defined by the California Department of Education.

ASES and CCLC are free programs that provide an essential protective service for children whose families lack the means to pay for care while they are at work. I cannot imagine that it is the intention of the state or county that our children or their families should be denied the safety, security, support, and peace of mind that these programs offer during these unprecedented times.

Conducting In-Person Assessment and Therapy Services on Campus

The Individuals with Disabilities Education Act (IDEA) guarantees the rights of children with to a free and appropriate education. Among other things, the IDEA requires that schools assess student learning needs within prescribed timeframes and provide any additional therapeutic services needed to ensure educational growth.

The United States Department of Education and California Department of Education have instructed local education agencies that they are required to adhere to the mandates expressed in the IDEA throughout the course of the pandemic.

In reviewing the state and local health orders, I find them to be narrow in scope and focused on the provision of instruction through distance learning.

There is no stated, explicit, or implied prohibition in state or county orders that prevents school districts and charter schools from providing services. The CDPH's reopening framework and the local public health order focus on instructional format. Neither prohibit schools from providing federally mandated services to individual children with disabilities by appointment on campus. In fact, educational agencies are required to provide services to the extent possible and are responsible for ensuring that the needs of these students are met. Use of these funds and offering programs assists in meeting students' needs. I cannot imagine that the state or county intends to deny or further delay children with disabilities access to the individual assessment and therapy services they need and are guaranteed by federal law.

Conditions to Be Met

Therefore, SDCOE will advise school district and charter schools of the following on Aug. 14, 2020:

1. ASES and CCLC recipients may expend funds to operate these programs on school campuses while their schools are restricted to distance learning, under the following conditions:
 - a. Each school must publish its COVID-19 prevention/re-opening plans on the school website.
 - b. Each schools' COVID-19 prevention/re-opening plans must conform to the [COVID-19 Industry Guidance: Schools and School-Based Programs](#).
 - c. In addition to adherence to the requirements described in the industry guidance, ASES and CCLC programs must do the following:
 - i. Students and staff will be scheduled into small (10 students or less) stable, groups with fixed membership that stay together for all activities (e.g., entering and exiting the campus, instruction, lunch, recess) and minimize/avoid contact with other groups or individuals who are not part of the cohort.
 - ii. All students in grade 3 and higher (except those exempted in accordance with CDPH guidance) and all staff will be required to wear a face cover when indoors and outside when physical distancing cannot be maintained. Students grade 2 and younger will be encouraged to wear face covers while indoors and outside when physical distancing cannot be maintained.
 - iii. All students and staff will be screened for temperature, symptoms of COVID-19, and exposures and excluded if they have a temperature 100F or more.
 - iv. Physical distancing of 6-feet will be maintained between all individuals in all settings.
2. Again, there is no stated, explicit, or implied prohibition in state or county orders that prevents schools from providing in-person assessment and therapy services for individual students when virtual means are not appropriate for the intended outcomes. SDCOE will advise LEAs providing these services to abide by the following conditions:
 - a. Each school must publish its COVID-19 prevention/re-opening plans on the school website.
 - b. Each schools' COVID-19 prevention/re-opening plans must conform to the [COVID-19 Industry Guidance: Schools and School-Based Programs](#).

- c. In addition to adherence to the requirements described in the industry guidance, LEAs providing in-person assessment and/or therapy services must do the following:
 - i. Assessments and therapy services may be provided to individual students only. Work with groups should not occur during this time.
 - ii. Assessments and therapy services should be conducted in an outdoor setting when conditions permit and when it will not adversely impact outcomes.
 - iii. Physical distancing (6-feet) must be maintained between the school employee and child during the assessment/service.
 - iv. The space used for assessments and/or services must be cleaned and disinfected by properly trained personnel prior to each appointment.
 - v. All students and staff will be screened for temperature, symptoms of COVID-19 and exposures, and excluded if they have a temperature 100F or more.

Please respond before Aug. 14, 2020 if you would like me to include additional requirements or you have any concerns.

Respectfully,



Paul Gothold, Ed.D.
County Superintendent of Schools