

**MEMORANDUM OF UNDERSTANDING
BETWEEN SANTA CLARA COUNTY OFFICE of EDUCATION
AND
PSYCHOLOGISTS AND SOCIAL WORKERS ASSOCIATION**

School Reopening Related to Coronavirus-19/COVID-19 (COVID-19)

PSWA to SCCOE September 28, 2020

The Santa Clara County Office of Education (“SCCOE” or “County Office”) and the Psychologists and Social Workers Association (“Association”) enter this Memorandum of Understanding (“MOU”) regarding the reopening of schools for the 2020-2021 school year.

This MOU is based on the following shared interests of the parties: (a) protecting the safety of all students and staff; (b) ensuring that the County Office is providing equitable access to educational resources, technology, academic support and intervention, and services for all students and families; (c) ensuring flexibility in the workday schedule and location, including remote delivery, to allow for adjustments in the delivery of psychological and therapeutic services to students based on mandates or recommendations from governmental entities; and (d) providing the highest quality of therapeutic and psychological services to students (including assessments).

As of the date of this MOU, the parties recognize that the COVID-19 pandemic necessitates significant modifications to the operation of schools to minimize the health risks associated with COVID-19 infection for all students, staff, and their families while also providing equitable access to education and related services for students.

The Parties acknowledge that bargaining unit members may need to self-quarantine/self-isolate, become quarantined/isolated, and/or SCCOE may need to close a learning cohort or close school (s) on an emergency basis to slow the spread of infection and illness arising from COVID-19 during the 2020-2021 school year.

Unless otherwise as noted below, the provisions of this MOU shall supersede any provisions of the Collective Bargaining Agreements between the Parties that are in conflict for the duration of this MOU, or until modified by mutual agreement of the SCCOE and the Association. The Parties affirm the obligation to comply with all provisions of the Collective Bargaining Agreements (“CBA”) not in conflict with this MOU. Further, the Parties affirm that all provisions of the Educational Employment Relations Act (“EERA”) California *Government Codes 3540 et seq.* apply and remain in effect.

The parties agree to the following:

1. Definitions

- a. “Classroom” – is any academic, learning, assessment or instructional space used by students, certificated, classified, parents, administrators, or other adults on a school campus. This applies to both indoor and outdoor learning spaces, and includes libraries, computer or scientific laboratories, study halls, or any other common space on a school campus.

- b. “Cohort” – is a group of students that maintains social isolation and physical distancing. Cohorts are designed to remain stable and intact in order to prevent the spread of infection and illness arising from COVID-19.
 - c. “Common Equipment” – is any school equipment or structure that is designed to be used or shared by more than one individual. This includes, but is not limited to, technology, books, computers, recess/playground equipment, physical education equipment, pens, pencils, psychological assessment tools, etc.
 - d. “Common Space” – is any indoor or outdoor space on a school campus designed or commonly used by more than one group of individuals. This includes, but is not limited to, school offices, nurse stations, playgrounds, blacktops, quads or outdoor gathering spaces, hallways, bathrooms, etc.
 - e. “Face Coverings” – face coverings or masks as recommended by federal, state, and local public health guidance.
 - f. “Hand Sanitizer” – this product must contain at least 60% alcohol. Ethyl alcohol is preferred and should be used when there is the potential of unsupervised use by children. Isopropyl alcohol hand sanitizers are more toxic and can be absorbed through the skin. Hand sanitizers containing methanol are toxic and shall not be used. (See CDC and FDA Advisories).
 - g. “Personal Protective Equipment” (PPE) – equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses.
 - h. “Physical Distancing” – also known as social distancing to help decrease the spread of the virus by increasing the space between people to at least six (6) feet or a distance specified by the SCCPHD, CDC or other governmental entity and reducing the number of different people with whom a person interacts.
 - i. “Psychological Assessment Instruments” – also known as assessments includes any norm-referenced proprietary tests, informal tests and surveys, etc. which are used by credentialed school psychologists in the assessment of children.
2. Safety Equipment and Personal Protective Equipment (“PPE”)
- a. The County Office will make available face coverings for all unit members to use.
 - b. The SCCOE will provide Personal Protective Equipment (“PPE”) (e.g. masks, gloves, gowns, face shields, portable Plexiglas barriers, etc.) as it deems necessary based on guidance and recommendation from SCCPHD, to unit members whose duties require the use of PPE.
 - c. In lieu of using SCCOE-provided face coverings, unit members may bring their own face coverings as long as the face covering complies with public health guidelines and provides equivalent protection. Unit members shall not be required to bring their own face coverings, and no unit member shall be disciplined or evaluated negatively for not bringing their own face coverings.

- d. The SCCOE will create a process, specific to each site, by which impacted unit members shall have access, daily, to the appropriate PPE. If the SCCOE cannot provide the appropriate PPE and unit members do not have their own, members will be sent home for the day, without loss of pay or leave. Any in-person services delivered by the unit member will resume when sufficient face coverings or, as applicable, PPE is available.
- e. Bargaining unit members who provided specialized health procedures, will be provided appropriate PPE as recommended by the SCCPHD or CDPH.

3. Face Covering Requirements

- a. Face coverings are required to be worn at all times by all adults on a school campus indoors or outdoors, except while eating or drinking. Face coverings are not required if a person is alone in an office, classroom, or other space.
- b. Face coverings are required for all students (transitional kindergarten through 12th grade) while arriving and departing from school campus; in any areas outside the classroom (except when eating, drinking, or engaging in physical activity); while waiting for or riding on a school bus.
- c. Elementary school students should be encouraged but are not required to wear a face covering within their stable classroom cohorts. If, however, an elementary student who is otherwise able to wear a mask refuses to do so, the bargaining unit employee is to notify their principal for assistance in addressing the situation.
- d. Middle school/junior high school and high school students must use face coverings when in the classroom even if they are in stable cohorts.
- e. Face coverings may not be required for students or staff if there is a medical or behavioral contraindication verified in writing from a medical professional or behavioral specialist. However, if a student engages in spitting and/or hitting, the bargaining unit employee is to notify their principal and the County Office will take the appropriate steps to address the student's conduct.
- f. Unit members for whom the County Office approves an exception to the requirement regarding wearing a face covering, may be permitted by the SCCOE to wear alternative devices, including, but not limited to, face shields with neck drapes tucked into the shirt.

4. Hand Washing Requirements

- a. The parties recognize that frequent hand washing for a minimum of 20 seconds minimizes the spread of COVID-19.
- b. All individuals shall make every effort to wash their hands or use hand sanitizer with at least 60% alcohol upon entering SCCOE sites and every time a classroom is entered.
- c. The SCCOE shall comply with the following hand washing requirements:

- i. Every classroom and therapy room with a sink, will be stocked with soap (hypo-allergenic if needed for students or staff), hand sanitizer with at least 60% alcohol, and no touch hand drying equipment or paper towels.
 - ii. Non-classroom workspaces and common spaces shall be provided hand sanitizer with at least 60% alcohol.
 - iii. Hand sanitizer with at least 60% alcohol or portable hand washing stations shall be provided at commonly used areas and main entrances and exits.
 - iv. All hand washing/hand sanitizing supplies noted above or otherwise provided shall be checked and restocked as quickly as possible and prior to the beginning of each day that staff and/or students are on campus.
5. In the case of bargaining unit members being on a County Office operated campus/facility or a campus/facility over which it has control, the SCCOE shall ensure all HVAC systems are set to operate on the mode which delivers the most fresh air changes per hour. Air filters will be changed prior to the start of the school year and in recommended intervals in accordance with the manufacturer's recommendation for the best filtration, including open outdoor air dampers to 100% as indoor and outdoor conditions safely permit. Portables and/or other rooms without adequate central HVAC shall be equipped with air filters with a large enough capacity and flow rate for the square footage of the room. The Parties affirm that public health officials have indicated based upon currently known information - which is subject to change - that proper ventilation is necessary to minimize the transmission and infection from COVID-19 especially for individuals in a closed space for extended periods of time by reducing the airborne concentration of the virus and thus the risk of transmission and infection of COVID-19 through the air. All locations with functioning windows shall be encouraged to keep them open depending on weather, temperature, or air quality conditions.
6. Adherence to Health Guidelines and Orders: SCCOE shall adhere to the most current COVID-19 guidelines and orders issued by the California Department of Public Health ("CDPH"), the Santa Clara County Public Health Department ("SCCPHD") and the California Department of Industrial Relations Division of Occupational Safety and Health ("Cal-OSHA").
7. Where there is a conflict between the guidelines or orders from the CDPH and SCCPHD, the SCCOE will adhere to the most restrictive guidelines or orders in order to minimize potential health and safety risks for all unit members, students, and their families.
8. Physical Distancing Classroom/Instructional/Academic Learning Spaces: The SCCOE will, to the extent practicable, adhere to the physical distancing guidelines/requirements issued by the SCCPHD and/or the state of California.
 - a. Whenever these guidelines/requirements are not practicable on a County Office operated campus/facility or a campus/facility over which it has the control, the SCCOE will meet with the impacted unit members and provide alternatives which are compliant with the guidelines/requirements.

- b. Unit members will not be required to enforce physical distancing rule violations, however, if they observe such a potential violation, they shall immediately notify their supervisor.
- c. School sites may designate staggered start and end times for cohorts, but any staggered start or end times shall not create longer work days for unit members.
- d. Meetings and Gatherings:
 - i. In-person meetings shall not take place until such time as applicable guidelines allow for such meetings. Until the time meetings shall be held virtually and shall be scheduled during non-instructional time, IEPs, 504, SST, and other similar assessments, etc. shall be conducted in accordance with applicable guidelines.
 - ii. Large in-person gatherings may take place when the CDPH and/or SCCPHD issue such guidelines.
 - iii. Virtual meetings should remain the preferred manner of meeting for the duration of the 2020-2021 school year.
- e. Student Cohorts: The Parties affirm that student cohorts are intended and designed to provide stable groupings of students that are maintained throughout each school day, and through each quarter, trimester, or semester, with an assigned primary cohort teacher, and systems are in place at the school site to prevent the mixing of classroom cohorts. To the extent that the County Office utilizes student cohorts, it will establish the same in accordance with the applicable guidelines issued by the SCCPHD.
 - i. Student cohort sizes shall be consistent with the physical distancing guidelines and classroom/work area physical space available for students and staff.
 - ii. Students should remain in their same workspace as much as practicable.
 - iii. If students need to move to other workspaces in a classroom the space should be cleaned before and after its use.
 - iv. Each student's belongings shall, to the extent possible, be separated and stored in individually labeled storage containers, cubbies, or areas. Each student's belongings are to be taken home each day to be cleaned.
 - v. SCCOE, working with unit members, shall provide each student with sufficient supplies in order to provide equitable access to education as well as to minimize the sharing of high-touch materials. If equipment must be shared between students, the equipment shall be cleaned and disinfected between uses.
 - vi. School staff shall limit the number of in-person visits to classroom cohorts in order to maintain the stability of the cohorts to the extent it does not interfere with SPED services or instruction.

9. It is noted that some assessments administered by school psychologists may only be performed in person (such as norm-referenced cognitive assessments meant to be individually delivered in person to students) while other activities and assessments (such as student observations) may be modified to include observations during remote instruction via the Zoom meeting platform. Additional assessment measures may be completed asynchronously through norm-referenced rating scales given to parents/caregivers and/or school staff. Any models developed for delivery of assessment services shall conform to the test developer's required instructions to ensure test reliability and validity.
10. Three service delivery scenarios are outlined within this MOU: a distance delivery model, a hybrid model (a combination of distance and traditional wherein work unit members are on-site only when necessary to work in-person with students), and a traditional (in-person) model with necessary modifications as directed by the California Department of Public Health (CDPH) and the Santa Clara Public Health Department (SCCPHD). The parties understand that other service delivery models may be developed by SCCOE in collaboration with this bargaining unit and implemented in order to respond to the current pandemic related to COVID-19.
11. The delivery models for school psychologists and school therapists set forth in this MOU are meant to be adaptable and flexible in accordance with the SCCOE's determination of the guidelines from the State of California and/or the County of Santa Clara as well as for the needs of students and staff. The SCCOE maintains the right to switch between the various delivery models identified in this MOU by providing notice to bargaining unit members. The SCCOE will comply with the applicable requirements/ guidelines with respect to the closure of a classroom, school, or site that it operates and/or over which it has control. In situations where the County Office is moving from a hybrid or traditional in person delivery model to a Distance delivery model, such change may take place the following business day. For changes from Distance delivery to hybrid or a traditional in person model, the SCCOE will provide bargaining unit members and students at least ten business days' notice prior to the change.
12. The SCCOE will offer bargaining unit members the option of whether they will work from home or on campus/SCCOE facility/site during the term of this MOU, unless being required to perform other services as a Disaster Service Worker per California Government Code section 3101.
 - a. The workday shall not exceed work hours that were performed for the 2019-2020 school year.
 - b. Bargaining unit members shall maintain their normal work hours and work remotely or may voluntarily provide services on campus/a SCCOE site until such time as guidelines or requirements are issued authorizing or requiring services be provided on campus via an in-person mode, at which time such members will be required, unless otherwise excused by the SCCOE to provide services on a campus.
 - c. Bargaining unit employees shall be available via Zoom or email and respond to parents and students accordingly. Should parents/guardians or students need to speak to a unit member who is working from home, they will email the unit member, and the unit member shall call via telephone at a mutually agreeable

time. IT is recommended that unit members utilize [*67] to block their personal phone numbers or register online for a free Google Voice number.

- d. Bargaining unit members working from home shall perform professional duties equivalent to their assignment which was assigned prior to the COVID-19 school closures. Such duties shall be provided with no disruption.
- e. Bargaining unit employees shall provide effective and meaningful therapeutic and psychological services to students in all models of service delivery.
 - i. Distance Delivery model- therapeutic services can be offered over zoom or the phone. Psychologists can complete Review of Records for students with upcoming assessments where this is the agreed upon assessment for the student.
 - 1. In the event that an assessment center is authorized to open while students are still in a Distance Learning model Psychologists and Therapists can request to continue to work from home or to work in the assessment center.
 - a. The assessment center should be a consistent work space with a scheduled time for psychologists to use, without distractions.
 - b. It should be a large room, with appropriate materials for assessment. This includes but is not limited to; a chair for the assessor and student, a table or multiple student desks, and an area of the room for the student to take a break.
 - c. Assessment centers should have a plexiglass shield with cut outs to allow passing of small objects or materials.
 - d. Assessment center should be well stocked with appropriate PPE for the psychologist and the student.
 - e. Assessment center should be cleaned and sanitized daily.
 - f. Assessment center should have a place for families to wait away from the assessment area. One parent may be allowed in the assessment area if necessary and if requested by the assessment team.
 - g. Psychologists who are working in the assessment center should have their caseload modified if they are completing assessments for psychologists who have selected to work from home. Psychologists who are approved to work from home can assist in the background information, and rating scales for the reports.
 - h. Psychologists administering assessments to students beyond their caseload should write up the section of the report for the assessments they administered, as well as

assessment observations, and co-sign the report with the assigned psych.

- i. Assessment Protocols (See Attached) should be agreed upon by the Ed Rights Holder prior to the student coming to the assessment center.

ii. Hybrid Model- Therapists and/or psychologists will conduct in-person interactions only when students are present in the classroom (as needed for assessing, providing therapy, etc.). In situations where no in-person activity is required and/or activities are already being conducted remotely (for example, Zoom IEP meetings, parent interviews, report writing etc.) the unit member shall be allowed to work remotely to minimize exposure to and possible transmission of the virus. Hybrid Model includes when some classes are fully traditional and other students are still learning via distance learning.

1. When assessing a student on campus the assessor should have a designated workspace outside of the student's classroom, or the assessor's office.
 - a. This work space should include; but is not limited to; a chair for the assessor and student, a table or multiple student desks, and an area of the room for the student to take a break.
 - b. Workspace should have a plexiglass shield with cut outs to allow passing of small objects or materials.
 - c. The workspace should be well stocked with appropriate PPE for the psychologist and the student.
 - d. The workspace should be cleaned and sanitized daily.

iii. Traditional Model- When students are back in classrooms in person therapeutic or psychological services will be delivered within classrooms, as provided prior to the pandemic, as long as mandated ratios of individuals (students and staff) are not exceeded per public health guidelines and social distancing and other health practice guidelines are followed as set out in this document and in accordance with required health regulations related to COVID-19. It is acknowledged that regulations may change over time as the situation evolves.

1. When assessing a student on campus the assessor should have a designated workspace outside of the student's classroom, or the assessor's office.
 - a. This work space should include; but is not limited to; a chair for the assessor and student, a table or multiple student desks, and an area of the room for the student to take a break.

- b. Workspace should have a plexiglass shield with cut outs to allow passing of small objects or materials.
 - c. The workspace should be well stocked with appropriate PPE for the psychologist and the student.
 - d. The workspace should be cleaned and sanitized daily.
 - 2. Unit members shall be able to discuss and seek approval from their supervisor and/or assistant director or director to continue to complete tasks that can be completed remotely (ie. Zoom IEP's, report writing, etc. to minimize exposure to and possible transition of the virus,
13. Unit members' compensation and benefits will not be reduced unless they refuse to perform their duties and/or are not eligible for a paid leave of absence pursuant to the parties' collective bargaining agreement. If a bargaining unit member is ill, the bargaining unit member can use sick leave. If employees exhaust their sick leave, they will be placed on Extended Sick Leave for up to 100 days (per school year) with differential pay and benefits.
14. Leaves of Absences/FFCRA/Reasonable Accommodations
- a. The SCCOE recognizes that some working bargaining unit employees may request time off, due to COVID-19 related reasons such as an employee's own unique underlying health condition or to care for children and/or health-compromised family members at home (e.g. closure of child's school, closure of child's caregiver provider, etc.). The SCCOE shall authorize the use of available, accrued sick leave as well as time off pursuant to the requirements of the Families First Coronavirus Response Act ("FFCRA") or other applicable leave entitlement, if any. For purposes of this paragraph, employees may not use Extended Sick Leave to remain in paid status, unless the absence is due to the employees own unique underlying health condition.
 - b. Wage Replacement For FFCRA Leave: If an employee is taking a leave under the FFCRA (whether it is for Emergency Paid Sick Leave or Emergency Family and Medical Leave) the employee may elect – by notifying the SCCOE to stack/top off the amount of pay they receive under such laws by using their accrued paid sick time (but not Extended Sick Leave) to receive up to 100% of their normal regular pay.
 - c. Absences Due to Exposure to COVID-19 Directly Traced to Work: This section only applies to bargaining unit employees who are physically reporting to a County Office site. To the extent that a bargaining unit member's exposure to COVID-19 is directly traced back to their assignment for the SCCOE—via contact tracing conducted by the SCCPHD or in conjunction with the SCCPHD – and if the SCCOE is not able to offer the bargaining unit member an alternate assignment - including working remotely - the SCCOE will place the employee on a paid leave for up to 10 work days. Such time will, if applicable, run concurrently with any leave rights under the CBA or applicable law, including the

FMLA/CFRA, but the employee will not be required to use any available, accumulated sick leave or extended sick leave to remain in paid status.

- d. Absences Due to COVID-19 Diagnosis Directly Traced to Work: this section only applies to bargaining unit employees who are physically reporting to a County Office site. To the extent that a bargaining unit member's diagnosis with COVID-19 is directly traced back – via contact tracing conducted by the SCCPHD or in conjunction with the SCCPHD – to their assignment for the County Office, and the bargaining unit employee is not able to work on a County Office site/facility or remotely, the County Office will place the employee on a paid medical leave for up to 10 workdays. Such time will, if applicable, run concurrently with any leave rights under the CBA or applicable law, including the FMLA/CFRA, but the bargaining unit member will not be required to use any available, accumulated sick leave or extended sick leave to remain in paid status. Bargaining unit employees will only be eligible to receive the paid leave provisions under this section one time.
 - e. In the event a bargaining unit employee member is unable to return to in-person instruction or work duties for bargaining unit employees in non-teaching positions because they are at high risk for COVID -19 as defined by Santa Clara County Public Health Department, the State of California's Department of Public Health, the Human Resources Department will engage with the employee to discuss potential options, which may include, engaging in pending an ADA interactive dialogue that explores various leave options, which may include FFCRA, FMLA, and/or CFRA. The SCCOE will update COVID Leave Policy SP 4100 as necessary or required by law.
 - f. In the event that a unit member may need to quarantine due to a possible exposure or exposure from someone within their household, the unit member shall be allowed to request to work remotely until it is safe to return to work in person.
15. To the extent that the guidance issued by the SCCPHD and/or CDPH contradict the provisions in this MOU, the parties agree that the MOU language will be considered null and no longer in effect and the parties will abide by such guidance. The parties recognize that the COVID-19 Public Health Emergency is an evolving situation and that modifications to this MOU may be necessary. The parties therefore reserve the right to reopen this MOU to address any issues that may arise after this MOU has been signed that impact the school reopening and/or the response to COVID-19 as well as changes in law, regulations, or guidance issued by a local, state, or federal official.
 16. This MOU resolves the negotiable effects of school reopening due to the new coronavirus (COVID-19). The parties agree this MOU is not precedential and does not create a past practice. The SCCOE will provide COVID-19 information to its employees.
 17. This MOU shall expire on the earlier of June 30, 2021 or at such time as the appropriate health organizations have removed any restrictions to returning to school in pre-COVID structures unless this MOU is extended by mutual written agreement.

The undersigned represent that they are authorized to execute this MOU.

For the County Office:

DocuSigned by:

10/1/2020

Anisha Munshi

Anisha Munshi, Ed.D.

Assistant Superintendent - Personnel Services

For the Association:

DocuSigned by:

10/1/2020

Jeremy Strametz

Jeremy Strametz

School Therapist

Assessment Procedures

The Santa Clara County Office of Education has determined that assessment of individual students may be conducted in person by the County's assessment team.

Prior to the Day of Assessment

- The assessor will contact the family and schedule the assessment time within normal business hours.
- Families are given directions to the assessment center, and a phone number to call.

Day of Assessment

- The student's family will be required to complete the health screening form prior to entering the assessment center.
- When parent and student arrive at the assessment center they will remain in their vehicle and call the number the assessor provided.
- The assessor will exit the assessment center and meet the family in the parking lot
- While maintaining social distancing, the assessor will review the Health Status form with the family.
- The student will then be provided hand sanitizer and will walk with the assessor to the assessment center. The assessor will give the family an estimated time for when the assessment will be completed.
- When nearing the end of the assessment session the assessor will call the family and let them know that they are on the way back to the parking lot.

- Assessor will walk the student back to the parking lot to meet their family. If additional days of assessment are needed those will be coordinated at this time.

After Assessment

- Assessor will return to the assessment center and wipe down all materials used and clean the surfaces used.
- At the end of each day the custodian will clean and sanitize the assessment center.