



Update on Re-Opening MOU Next Steps

Board Meeting
April 8, 2021
Agenda Item No. 7.3

Presented by: Raoul Bozio, In-House Counsel

Attempts to Meet and Confer With SCTA

Three Feet Guidance

- CDC, CDPH, SCDPH allow for three feet distancing between students in classroom settings (six feet between adults, adults and students, when eating, etc.)
- Section I.A. of the MOU with SCTA provides the District will comply with guidelines and regulations from CDC, CDPH, CDE, Cal/OSHA, and SCDPH

SCTA Meet and Confer – Three Feet Guidance (Continued)

- Section A.3 provides: *All revisions and updates to the above health and safety guidelines. If any provision contained in this MOU conflicts with revised or updated guidelines, best practices, recommendations, and considerations from SCDPH or CDPH the Parties agree to meet and confer.*
- On March 31, 2021, District sought to meet and confer regarding the three feet guidance with SCTA
- On April 5, 2021, SCTA emailed declining to meet and confer with the District
- On April 7, 2021, District sent another letter concerning the need to meet and confer regarding the three feet guidance

District's March 31, 2021 Request to Meet and Confer

- *The revised [CDC] guidance reduces the recommended physical distancing space between students in a classroom setting to at least three feet.*
- *Given the updates to health and safety guidance related to physical distancing at school sites and the impact that these updates may have on the number of students who can return to our schools for in-person instruction and the schedule for students, the District would like to meet and confer with SCTA, pursuant to Section 1.A.3 on the revised and updated guidance.*

SCTA's April 5, 2021 Refusal to Meet and Confer

- *Our MOU (Section VII.A.1, Section VII.A.2 and Section VII.A.3) which is consistent with the District's own 'Return to Health Guideline' (revised March 13, 2021) mandates distancing space of at least six feet. This does not "conflict" with the CDC guidelines. In fact, it is quite consistent with CDC guidelines which recommend at least three feet distancing space between students in a classroom setting: six feet distancing is 'at least' three feet social distancing between students in a classroom setting.*
- *[Y]our request to meet and confer . . . is not applicable.*

District's April 7, 2021 Second Request to Meet and Confer

- *In fact, in the District's proposal presented to SCTA . . . on March 19, 2021, the District proposed language . . . that read: "The parties understand that there continues to be changes to the state and local guidelines and requirements related to physical distancing, cohorts, and other areas that may impact the format of the instructional model. The parties will meet and confer as needed." When the District shared this language ... [SCTA] stated it would be a huge setback if the District were to talk about 3 feet of physical distancing and indicated that SCTA would not agree to 3 feet.*
- *[SCTA] indicated that the language in the first sentence of Section I.A.3 allowed the parties to meet if there were changes in the guidance and that the second sentence was unnecessary. The District eventually deleted the . . . sentence . . . because ... it was clear the District intended to revisit the issue of physical distancing based upon the new guidance by public health officials.*

District's April 7, 2021 Second Request to Meet and Confer (Continued)

- Quoting the CDE, *“an LEA with more than sufficient space, staffing, hygienic supplies, etc. to ensure health and safety of all students should be offering full-day and full-week in-person instruction to all of its students.”*
- *[N]ot only have the CDPH and SCDPH guidelines for physical distancing changed since the MOU was agreed to at the table, the CDE has now stated its position on the expectation of offering in-person instruction “to the greatest extent possible” as related to compliance with AB 86.*
- District cited previously shared information about classroom capacity, which shows that almost all classrooms can space desks three feet apart without exceeding the total student headcount limits.

Request for Impasse Determination

SEIU Negotiations

- Between February 25 and April 3, 2021, the District and SEIU have met on eight days and have exchanged 12 proposals combined regarding reopening schools
 - [SCUSD's last counter-proposal](#)
 - [SEIU's last counter-proposal](#)
 - [SEIU's Modified Proposal](#)

Request for Impasse Determination SEIU Negotiations (Continued)

- While SCUSD and SEIU have made movements in their proposals, several areas of disagreement remain:
 - Leaves
 - Child care
 - Physical distancing
 - Reimbursement
 - Stipends
 - Plexiglass
 - N95 fit tested masks

Request for Impasse Determination SEIU Negotiations (Continued)

- April 5, 2021, SCUSD filed a request for impasse determination with PERB
- Awaiting determination by PERB
- Next step would be mediation

Q & A