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06/04/21 10:41 AM

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

Date Filed: 06/04/2021

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No _____ NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Jacob Rukeyser

b. Mailing Address: CTA, 1705 Murchison Drive, Burlingame, CA 94010-4583

c. Telephone number: (650) 552-5414

d. Name and title of agent to contact: Jacob Rukeyser E-mail Address: jrukeyser@cta.org
Telephone number: (650) 552-5414 Fax No.: (650) 552-5019

e. Bargaining Unit(s) involved: Sacramento City Teachers Association

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: Sacramento City Unified School District

b. Mailing Address: 5735 47th Avenue Sacramento, CA 95824

c. Telephone number: (916) 643-7400

d. Name and title of agent to contact: Jorge A. Aguilar, Superintendent E-mail Address: superintendent@scusd.edu
Telephone number: (165) 074-3255 Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:
b. Mailing Address:
c. Agent:

5. GRIEVANCE PROCEDURE

¹An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

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Yes No Unknown

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (*a copy of the applicable local rule(s) MUST be attached to the charge*):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent’s conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief. (A Declaration will be included in the e-mail you receive from PERB once you have completed this screen. The person filing this Unfair Practice Charge is required to return a properly filled out and signed original Declaration to PERB pursuant to PERB Regulations 32140 and 32135.)

(Type or Print Name)

/s/
(Signature)

06/04/2021
Date



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UNFAIR PRACTICE CHARGE

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INSTRUCTIONS: File this charge form via the e-PERB Portal, with proof of service. Parties exempt from using the e-PERB Portal may file the original charge in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No. NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: SACRAMENTO CITY TEACHERS ASSOCIATION, CTA/NEA
b. Mailing address: c/o California Teachers Association, 1705 Murchison Drive, Burlingame, California 94010
c. Telephone number: 650-552-5425
d. Name and title of person filing charge: Jacob F. Rukeyser, CTA Staff Counsel
E-mail Address: jrukeyser@cta.org
Telephone number: 650-552-5414
Fax No.: 650-552-5019
e. Bargaining unit(s) involved: Certificated employees

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
b. Mailing address: 5735 47th Avenue, Sacramento, California 95824
c. Telephone number: 916-643-7400
d. Name and title of agent to contact: Jorge A. Aguilar, Superintendent
E-mail Address: superintendent@scusd.edu
Telephone number: 916-643-7400
Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:
b. Mailing address:
c. Agent:

¹ An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569.

5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Millias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 et seq.))
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:

Government Code section 3543.5, subds. (a), (b), and (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (**a copy of the applicable local rule(s) MUST be attached to the charge**):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

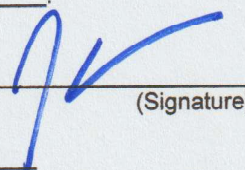
See Statement of Charge, attached hereto as Attachment "A" and Exhibit 1 thereto.

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on June 4, 2021
(Date)

at Sacramento, California
(City and State)

John Borsos
(Type or Print Name)



(Signature)

Title, if any: Executive Director, SCTA

Mailing address: SACRAMENTO CITY TEACHERS ASSOCIATION, CT/NEA, 5300 Elvas Avenue
Sacramento, California 95819

Telephone Number: 916-452-4591

E-Mail Address: jborsos@ccta.org

STATEMENT OF CHARGE

Within the six months preceding the filing of this unfair practice charge, the Sacramento City Unified School District (District) has unlawfully failed and refused to bargain with, and has unlawfully denied the statutory rights of, the Sacramento City Teachers Association, CTA/NEA (SCTA), the exclusive representative of the District's certificated employees, and has unlawfully interfered with the statutory rights of the SCTA unit employees, all in violation of the Educational Employment Relations Act, and as evidenced by, but not limited to, the following:

1. At all times relevant, the District has been a public school employer within the meaning of Government Code section 3540.1, subdivision (k).

2. At all times relevant, Jorge Aguilar has been the District's Superintendent, a management employee within the meaning of Government Code section 3540.1, subdivision (g) and an agent of the District.

3. At all times relevant, SCTA has been the exclusive representative of the District's certificated employees within the meaning of Government Code section 3540.1, subdivision (e).

4. From approximately February 9, 2021, through March 20, 2021, SCTA and the District (collectively Parties) were engaged in collective bargaining over the many negotiable workplace health and safety impacts of an eventual resumption of in-person instruction following the many months of primarily distance learning instruction necessitated by the ongoing COVID-19 pandemic. Among the health and safety matters over which the Parties were negotiating was physical distancing requirements.

5. While the Parties were still actively engaged in collective bargaining over these workplace health and safety matters, including physical distancing requirements, the federal Center for Disease Control (CDC) issued updated guidelines providing for at least three feet of physical distance between student desks in classrooms. The Parties were aware of this updated CDC guidance as they continued to bargain over these workplace health and safety issues.

6. On March 20, 2021, the Parties executed a memorandum of understanding on "Safely Reopening Schools to In-Person Instruction/Services" (MOU) addressing a wide range of negotiable workplace health and safety impacts of in-person instruction, including but not limited to workplace physical distancing standards. A true and correct copy of the Parties' March 20, 2021 MOU is attached hereto as **Exhibit 1**. The Parties' MOU is scheduled to expire on the last day of the 2020-2021 traditional school year, i.e., June 18, 2021.

7. The Parties' MOU explicitly provides for physical distancing of at least six feet. It does so explicitly and repeatedly. Thus, for example, it provides at Section VII.A, that the District shall limit occupancy of "shared work or school spaces to provide no less than six (6) feet of distancing." (See **Exhibit 1**, p. 5.) The Parties' MOU also incorporates by reference the District's earlier March 13, 2021 "Return to Health: Health and Safety Plan During COVID-19," which document also explicitly and repeatedly mandates physical distancing of at least six feet, including in District classrooms.

8. At the time they agreed to this minimum six-foot physical distancing requirement in their MOU, the Parties were well aware of, and in fact explicitly discussed, the recent CDC guidance recommending at least three feet of physical distancing at schools. Understanding that the CDC was then recommending a smaller physical distancing requirement in certain circumstances, the Parties nonetheless agreed to the more conservative six-foot minimum.

9. Recognizing the possibility that public health developments might result in new public health requirements that conflicted with their MOU, the Parties agreed at Section 1.A.3 that "If any provision contained in this MOU conflicts with revised or updated guidelines, best practices, recommendations, and considerations from [Sacramento County Department of Public Health] or [California Department of Public Health] the Parties agree to meet and confer." (See **Exhibit 1**, p. 1.)

10. At no time has the MOU's minimum six-foot physical distancing requirement conflicted with any revised or updated public health guidelines. On the contrary, these guidelines, mirroring those adopted by the CDC, recommend *at least* three feet of physical distancing in schools. The Parties' MOU thus comports with these revised guidelines, as its physical distancing requirement is not less than the three feet they mandate.

11. Although the Parties' MOU did not conflict with revised or updated public health guidelines, the District almost immediately began to insist that the new public health guidelines recommending at least three feet of physical distancing gave rise to such a conflict. On that basis, beginning in late March 2021, Superintendent Aguilar began requesting that the Parties meet and confer over unspecified revisions to their recently negotiated physical distancing requirements. The Union declined Superintendent Aguilar's demands, repeatedly explaining that the Parties' MOU did not conflict with any updated public health guidance.

12. Despite the Parties' agreement in their MOU, on or about May 26, 2021, the District notified administrators that effective June 2, 2021, it would abandon the Parties' six-foot physical distancing requirement and replace it with a three-foot physical distancing requirement.

13. Superintendent Aguilar confirmed the District's decision thus to abandon the Parties' negotiated six-foot physical distancing requirement in a letter to SCTA dated May 28, 2021. In that letter, Superintendent Aguilar insisted that the District's "actions are consistent with the law and the [Parties'] MOU."

14. The physical distancing requirements set forth in the Parties' MOU are within the scope of representation, as they were negotiated as "safety standards." (See **Exhibit 1**, p. 1.)

15. The District altered the status quo ante with respect to workplace physical distancing requirements when it abandoned the six-foot minimum physical distancing requirements set forth in the Parties' MOU, and replaced them with a new three-foot minimum physical distancing requirement.

16. Prior to thus altering the status quo on a matter within the scope of representation, the District did not provide SCTA with notice or an opportunity to bargain. While the District repeatedly and incorrectly attempted to invoke the MOU provision for additional negotiation in the event that any MOU provision conflicts with revised public health guidance, it did not inform SCTA that it intended to slash in half the Parties' recently negotiated physical distancing requirements. Instead, the District only generally and incorrectly attempted to meet and confer in light of a purported "conflict" between the MOU and public health guidelines.

17. The District's change to the status quo constitutes a change in policy given its widespread impact on virtually all SCTA unit employees, and because Superintendent Aguilar has insisted that the District's actions were consistent with the law and the MOU.

18. The District's conduct described above constitutes an unlawful unilateral change, a per se violation of the statutory duty to bargain in good faith, and a violation of Government Code section 3543.5, subd. (c).

19. The District's conduct described above constitutes a derivative unlawful denial of SCTA's statutory rights in violation of Government Code section 3543.5, subd. (b).

20. The District's conduct described above constitutes derivative unlawful interference with the SCTA unit employees' statutory rights in violation of Government Code section 3543.5, subd. (a).

WHEREFORE, Charging Party Sacramento City Teachers Association, CTA/NEA, requests that the Public Employment Relations Board issue an order:

1. That the District violated Government Code section 3543.5, subds. (a), (b), and (c);
2. That the District cease and desist from failing and refusing to bargain in good faith with SCTA, from denying the statutory rights of SCTA, and from interfering with the statutory rights of the SCTA unit employees;
3. That the District rescind all unlawful unilateral changes, return to the status quo ante, and make whole SCTA and all SCTA unit employees for all losses suffered thereby and according to proof;
4. That the District post an appropriate notice at all places where such notices are regularly placed informing the community of PERB's determination that the District violated the Educational Employment Relations Act, and that such notice be personally signed by Superintendent Aguilar himself; and
5. For all other appropriate and just relief.

EXHIBIT 1

Memorandum of Understanding
Between
Sacramento City Unified School District (SCUSD)
&
Sacramento City Teachers Association (SCTA)

**Safely Reopening Schools to In-Person Instruction/Services
March 20, 2021**

Section I: General Provisions

With the greatest concern for the health and safety of students, staff, and community, Sacramento City Unified School District (“SCUSD”) and the Sacramento City Teachers Association (“SCTA”) agree that the following safety standards shall be in place for the safe reopening of in-person learning and working at SCUSD school and worksites.

A. General Safety Protections

The District agrees to comply with guidelines and regulations, from the Centers for Disease Control and Prevention (CDC), the California Department of Public Health (CDPH), the California Department of Education (CDE), Cal/OSHA, and the Sacramento County Department of Public Health (SCDPH), including, but not limited to:

1. CDPH “COVID-19 and Reopening In-Person Instruction Framework & Public Health Guidance for K-12 Schools in California, 2020-2021 School Year”, dated January 14, 2021.
2. The SCUSD “Return to Health: Health and Safety Plan During COVID-19” (dated March 13, 2021), except in instances where the SCUSD “Return to Health” plan conflicts with this MOU, wherein this MOU shall prevail.
3. 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.

If any provision contained in this MOU conflicts with a provision of the Collective Bargaining Agreement between the Union and the District, the higher standard shall prevail.

B. Health and Safety Committee

The District shall meet monthly with a committee of representatives from SCTA to continue conferring on health and safety matters related to COVID-19, including but not limited to ventilation, cleaning and disinfecting, community spread, contact tracing, and staff and student testing. The purpose of this committee is to ensure that each facility meets health and safety standards and to address concerns when raised. In addition, the committee will continue to further explore on an ongoing basis additional safety measures for District employees, students, and the public.

Section II: County Risk Level. Sacramento County risk level is in the Red Tier as defined by the California Department of Public Health, and according to California's Blueprint for a Safer Economy.

If the State's adjusted COVID-19 case rate for Sacramento County exceeds 25 cases per 100,000 population or greater, all grade levels shall return to the full distance learning model.

Section III: Vaccinations: The parties agree that the District will continue to seek opportunities to participate in partnerships with other agencies to provide unit members with opportunities to access vaccines. Prior to reporting in-person to District schools or worksites for required instruction/services with students, unit members shall have had the opportunity (eligibility and access) to be fully vaccinated for achieved immunity at the prescribed schedule. The District will make every attempt to facilitate SCTA bargaining unit member vaccinations as soon as possible.

A. The District shall actively support and assist the Sacramento Department of Public Health to ensure the COVID-19 vaccine is widely available and easily accessible to staff, to the best of the District's ability, including the measures listed below:

B. The Parties shall communicate with all unit members in writing about the availability of the COVID-19 vaccine to them, including where they may receive the vaccine and how to make an appointment, if necessary, to receive the vaccine;

C. The District shall each provide to all unit members written educational materials about the vaccine, including accurate information from the Centers for Disease Control (CDC) on the vaccine's benefits, risks, and efficacy rates and shall encourage them to be vaccinated against COVID-19;

D. Unit members may use 2-hours to be vaccinated during their work hours without loss of pay. In extenuating circumstances, unit members shall be able to utilize more than 2-hours of paid time in order to be vaccinated. If unit members make an appointment during the contractual day, they will work with their site administrator on how to accommodate.

Section IV: Testing

As State and County testing guidelines and directives evolve, the District shall comply with current guidelines. Used in combination with other mitigation strategies, COVID testing is an additional strategy to support safer in-person instruction. Testing may allow for early identification of cases and exclusion from school to prevent transmission. A negative test provides information only for the moment in time when the sample is collected. Individuals may become infectious shortly after having a negative test, therefore we must maintain all other public health mitigation strategies already in practice.

Before students return to school sites for in-person learning, the District shall provide COVID testing to all students and staff assigned to return to any school or worksite. The District shall

continue to make free voluntary COVID testing available to students and staff during normal work hours at each school and worksite that is open, with every effort made to ensure result turn-around time within forty-eight (48) hours of testing.

Through June 30, 2021, the District shall provide testing as follows:

1. While the county risk level for Sacramento is in the red-tier as defined in the Blueprint for a Safer Economy, the District shall continue asymptomatic testing students and staff at least every two (2) weeks.
2. While the county risk level for Sacramento is in the yellow or orange tier as defined in the Blueprint for a Safer Economy, the District shall continue to make asymptomatic testing available to all staff and 20% of students reporting to a work or school site every two weeks.
3. The District shall provide for non-District personnel to be tested at the same cadence as District staff for so long as non-District personnel are providing services at the school or District site where District personnel will come into contact with non-District personnel.

The District shall also adhere to Cal-OSHA testing requirements during an “outbreak” (3 or more COVID cases at a Cal-OSHA defined exposed workplace per 14-day period) and a “major outbreak” (20 or more COVID cases at a Cal-OSHA defined exposed workplace per 30 days) that call for immediate testing and weekly tests for employees during an outbreak, and immediate testing and twice weekly testing for employees during a major outbreak, among other measures.

The District shall create and maintain a Public Dashboard that reports all instances of positive cases at all schools and worksites. The Dashboard shall be updated within five (5) working days of the District receiving confirmation of a positive test. All numbers on the Frontline Dashboard will be updated and reported weekly.

Section V: Health Screenings

1. All persons will be screened for COVID-19 symptoms and exposure before they are allowed to enter school grounds and District facilities. Screening will include a visual wellness check, and a health screening form. Subject to availability, these screenings will be conducted by a health care professional, who shall be available while in-person learning is occurring. Subject to availability, the District will contract to provide medical assistants to assist with COVID testing, and when not testing they can also assist with screening, providing supervision of the care room if/when needed, ensuring health and safety measures are in place and contact tracing.

Symptoms to be screened for include:

- a. Fever 100.4 degrees Fahrenheit or higher
- b. Cough
- c. Shortness of breath or difficulty breathing
- d. Fatigue

- e. Muscle or body aches
- f. Headache
- g. New loss of taste or smell
- h. Sore throat
- i. Congestion or runny nose
- j. Nausea or vomiting
- k. Diarrhea
- l. Chills

Section VI: Protocol for Monitoring COVID 19 Symptoms and Positive Cases

- A. Students and staff who do not pass screening as provided in section V of this MOU or who become symptomatic during the day will be sent home immediately. Such students and will wait in an isolation area (Care Room) until they are picked up by a parent or authorized guardian. When available, the District shall staff the Care Room with medical personnel, consistent with Section V, Health Screenings, above.
- B. The District's contact tracing program and monitoring requires designated staff to take appropriate action to mitigate the spread of COVID-19, to communicate messages tailored to the various stakeholders, and to complete the necessary documentation in accordance with state and local COVID-19 reporting requirements.
- C. The District's Contact tracing program will be in writing, as set forth in the District's "Return to Health Plan," dated March 13, 2021, readily available to staff and made viewable to the public while maintaining the necessary confidentiality of personally identifiable information. The plan should contain names and roles for those responsible for each step of the tracing, as well as make available the related information to facilitate the tracing (attendance rosters, classroom seating charts, room assignments, campus maps, etc.).

The District shall partner closely with the Sacramento County Department of Public Health for a robust contact tracing program.

- D. **SCUSD Monitoring Program** – Any student or staff who goes home with or reports COVID 19 like symptoms, has tested positive for COVID 19, or has been identified as a close contact will be documented in the COVID 19 Confidential Illness Log to monitor students and staff who are home on isolation or quarantine.
 - 1. For students, site staff will give appropriate guidance on when to return to school based on the SCDPH Quick Guide COVID-19 Protocols and provide a written communication indicating when the student may return based on current guidance from state and local departments of public health.
 - 2. Site staff will inform appropriate staff on a need-to-know basis about student or staff return to school date while maintaining confidentiality.

E. Notification

Notification of positive cases and Cal-OSHA defined outbreaks shall be provided to staff and their union representatives within 24 hours of potential exposures and outbreaks. In compliance with AB 685, this notification to Union representatives and their unit members shall include the following:

1. Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as anti-retaliation and antidiscrimination protections of the employee; and
2. The disinfection and safety plan that the employer plans to implement and complete per the guidelines of the federal Centers for Disease Control.

F. Any staff member identified as a close contact who must quarantine as a result of a workplace exposure will not suffer a loss of pay or sick leave.

G. Return to Work Criteria

The District will adhere to Cal-OSHA, CDPH, and SCDPH guidance for confirmed or suspected cases of COVID-19 in a school.

Section VII: COVID Hygiene

The District shall comply with the COVID 19 hygiene, distancing, and masking standards mandated by the State and County Department of Public Health Directives and incorporated in the SCUSD "Return to Health: Health and Safety Plan During COVID-19" (dated March 13, 2021).

A. Physical Distancing

1. The District shall limit occupancy of bathrooms, elevators, locker rooms, staff rooms, offices, warehouses, and conference rooms, and any other shared work or school spaces to provide no less than six (6) feet of distancing. Adjacent bathroom stalls may be used. The District shall post signs with occupancy limits conspicuously at the entrance to each room.
2. Persons on school grounds, including students and staff, will not be allowed to congregate in staff rooms, break rooms, entrances, exits, hallways, or other common areas. At places where students and staff congregate or wait in line, the District shall mark spots on the floor or the walls 6 feet apart to indicate where to stand.
3. Staff and students will not be allowed to congregate on school grounds when outside. Safe distancing of 6 feet will be maintained at all times.

B. Face masks and Cloth Face Coverings

1. The District shall make available disposable 3-ply surgical masks to staff to wear while on school grounds if staff or students may have forgotten a mask.
2. All adults and students, including those in pre-school and TK-2nd grade, must wear face coverings over both their nose and mouth at all times on campus. Students with documented medical or behavioral contraindications to face masks and cloth face coverings are exempt. A cloth face-covering or face shield should be removed for meals, snacks, naptime, or when it needs to be replaced. This includes family members and caregivers dropping off or picking-up students. CDPH guidelines call for individuals not able to wear masks to wear alternate PPE if able to do so (face shields with drapes, etc.).
3. In situations where a student is not able to wear a face covering due to a developmental delay, medical condition, mental health condition or disability, each student's individual need will be considered in consultation with their health care provider and parent/guardian, ensuring health and safety regulations are followed for the safety of all participants, provided that a medical recommendation is made for a student not wearing a mask.

C. Sanitation Stations

The District will ensure that hand washing stations and sanitizing supplies (including paper towels, tissues, hand sanitizer with at least sixty percent (60%) ethyl alcohol, and disinfectant wipes) are easily accessible in all areas frequented by staff.

D. Personal Protective Equipment (PPE)

1. The Centers for Disease Control and Prevention (CDC) does not recommend personal protective equipment (PPE) beyond a face covering when interacting with asymptomatic individuals who are not known to have COVID-19.
2. PPE is not a substitute for environmental safety measures and should be used in conjunction with other safety measures such as wearing a face covering, physical distancing, ventilation, partitions, and handwashing.
3. The District shall provide all necessary PPE to staff, including contractors, who provide specialized support services. This includes surgical masks, face shields, and disposable gloves.
4. The District shall ensure that there is a two-month supply of Personal Protective Equipment in the warehouse, and each school/worksites will receive monthly deliveries of supplies, and on-demand as requested.

E. Ventilation and Filtration: The District will provide the following environments for in-person classroom instruction to take place in those spaces with:

1. Currently equipped with a centralized HVAC system that provides air filtration with a minimum efficiency reporting value (MERV) of 13 or better; or
2. For those occupied areas without a centralized HVAC system that provides air filtration with a minimum efficiency reporting value (MERV) of 13 or better, portable HEPA air filtration units with a clean air delivery rate (CADR) of 250 or greater per 1000 square feet of floor area will be used.

The above standards shall apply in each SCUSD facility classroom, auditorium, gymnasium, nurses' office, or other occupied area in which bargaining unit members are required to report to work.

3. Beginning on April 14, and then every two weeks thereafter, the SCUSD Assistant Superintendent for Facilities or his designee will provide to SCTA a list by school and classrooms of which classrooms are equipped with MERV 13 filters and those in which portable HEPA filters will be placed.
4. HVAC systems will be begin running at least two (2) hours before the beginning of the school day and continue for at least two (2) hours after.
5. Occupied spaces will only be used if they are equipped with an HVAC system that provide for the introduction of outside air into the occupied space, or if they are equipped with functional CO2 Monitors.
6. Within two weeks of students returning to each school site, the site will be provided two (2) portable, battery-powered CO2 monitors, or loggers to check classrooms during their peak occupancy. Within two weeks of the resumption of in-person instruction at the site, District facilities staff will conduct a walk-through of each classroom while they are fully occupied to check CO2 levels, and will flag any classroom that registers over 1000 parts per million (ppm). If a classroom registers over 1000 ppm that classroom will not be used until the cause for the high CO2 level has been corrected. Certificated staff member may request a classroom check and be provided the use of the logger, if they detect an immediate problem or concern of a ventilation system failure.

The District will work with qualified third parties to conduct evaluations of its air ventilation and filtration systems with the targeted time-frame goals based on availability of materials. The District will work with its existing controls vendor to install compatible CO2 monitors by the fall semester of 2021-2022. The District will work with qualified vendors to engineer and install CO2 monitors in rooms that lack compatible controls with the existing building control system. The District's goal is to install these CO2 monitors by spring semester 2022. Finally, the District will retain a qualified 3rd party technician to complete a TAB report of all units by the end of spring semester 2022. A copy of that

report will be provided to SCTA upon completion. The parties recognize that this issue may be revisited in subsequent negotiations about safety conditions related to the 2021-22 school year, and based on information that is more up-to-date after the expiration date of this agreement.

The District will apply for a grant pursuant to AB 841 to assess District HVAC units, provide general maintenance, adjust ventilation rates, filter replacement, and carbon dioxide monitor installation. If the District receives a grant pursuant to AB 841, the District will have a third-party review each and every HVAC unit in the District to ensure it is running at optimal efficiency.

Section VIII: Cleaning and Disinfecting Plans

In compliance with regulations, guidance, and recommendations from the CDC, CDPH, Cal/OSHA, and SCDPH, the District shall adopt cleaning and disinfecting plans and training programs to prevent the spread of COVID-19. The cleaning and disinfecting plans shall adhere to CDC guidance in the current "Cleaning and Disinfecting your Facility," <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>, and to CDPH cleaning and disinfecting guidance in the current "COVID-19 and Reopening In-Person Instruction Framework & Public Health Guidance for K-12 Schools in California, 2020-2021 School Year". The District's cleaning and disinfecting plans shall be as set forth in the SCUSD "Return to Health: Health and Safety Plan During COVID-19" (dated March 13, 2021) and will be available for all staff and families to review.

When choosing disinfection products, the District will use those products approved for use against COVID-19 on the Environmental Protection Agency (EPA) approved list "N" and follow product instructions. To reduce the risk of asthma and other health effects related to disinfection, The District should select disinfectant products on list N with asthma-safer ingredients (hydrogen peroxide, citric acid or lactic acid) as recommended by the US EPA Design for Environment program. The District will avoid products that contain peroxyacetic (peracetic) acid, sodium hypochlorite (bleach) or quaternary ammonium compounds, which can cause asthmatic attacks per [CDPH Industry Guidance](#).

Section IX: COVID-19 Prevention Program (CPP)

Before a school site is reopened, parents and guardians of children attending school at the site will be notified in writing of the physical distancing, face covering, health screening, and other COVID-19 health and safety requirements for persons at each school site. Signage will be conspicuously posted at all entrances describing such requirements.

The sites with support from Central Office shall implement and monitor the CPP each day, fixing problems when they arise. The CPP shall contain all required elements as mandated by Cal-OSHA.

Section X: Staff with Dependents and Other Circumstances Related to Return to In-Person Instruction.

Upon completion of their in-person teaching day pursuant to the attached schedules, unit members may remain in their classrooms or work from home during the remaining period of the workday, including when providing distance learning or targeted student supports via distance learning. Bargaining unit members may also work remotely for the collaborative and distance learning day on Mondays.

Employees who have a pre-existing medical condition may request an accommodation through the established interactive process pursuant to District Administrative Regulation 4032.

For those staff who have primary caregiver responsibility for a family member who has a serious health condition confirmed by their health care provider, the District will allow staff to continue to work remotely if the unit member can meet the essential functions of their position as determined through the interactive process with the Risk Management. If the District has a concern about a written recommendation from a health provider, consistent with past practice, SCUSD's Risk Management can follow up with bargaining unit member's health provider. The parties further agree that this accommodation for staff to work remotely applies only for the duration of this agreement. The process and decisions for employees engaging through the interactive process are not subject to the grievance process.

Requests for such accommodations will be considered on a case-by-case basis and only with supporting medical documentation from their medical provider. Individuals who have submitted requests for accommodation through the interactive process may be determined to qualify for a remote work assignment accommodation for the reopening of schools in-person concurrent model.

Accommodations may include, but are not limited to: the provision of personal protective equipment (PPE), heightened social distancing protocols, and remote working. If the unit member is unable to accept any accommodations, all unit members will be granted any and all available leaves under the CBA or state and federal leaves for which they qualify (e.g. permissive, FMLA).

For those employees granted the accommodation for remote work, the District shall provide a substitute teacher to staff the in-person portion of impacted teachers' instructional day.

In addition, the District recognizes that for many staff, the pandemic has created significant child care issues, particularly as schools begin to reopen for in-person instruction across California. In an effort to provide some support, the District will:

- Allow impacted parents to bring their school age children to work in their classroom, provided there is space to accommodate the child, consistent with the social distancing and health and safety provisions of this agreement as well. Prior to bringing a school aged child to work the unit member shall complete a liability waiver. The unit member

shall ensure that their child follows all established health and safety protocols, including but not limited to wearing a face mask, maintaining physical distancing and is not disruptive to student instruction and or other school business.

- Make reasonable effort to allow impacted parents with students in Sac City to be placed in a cohort that works best with their teaching assignment.
- Work with SCTA and the City of Sacramento to explore the possibility of child care centers throughout the District, with a priority placed on addressing the child-care needs of SCUSD staff.

Section XI: Instructional Model

The parties will implement a Concurrent Instructional Model as set forth in Appendix A. The parties agree that there will continue to be a Distance Learning Only option available to students.

School sites shall provide instruction to ensure continuity of learning for students remaining online and those choosing to attend onsite instruction.

While in the In-Person/Concurrent Instructional Model, the instructional minutes requirements of Senate Bill 98 will be followed.

Section XII: Reopening Dates

The parties agree to the commencement of in-person instruction according to the following:

- a. April 8: Pre-K through 3 and all K-6 Special Day Class students
- b. April 15: All 4-6 grade students
- c. April 22: 7-12 Grade students

Section XIII: Onsite Training and Unit Member Preparation.

Unit members shall return onsite three days prior to students returning. Onsite training related to health, safety, and site procedures, and unit member preparation will occur three days prior to students returning onsite. The actual dates will vary based on the date classes resume by grade level, as set forth in Section XII above.

Three days before the commencement of in-person instruction as set forth in Section XII above, will be a full distance learning day for students and teachers will engage in collaborative time on this day.

The two days immediately before the commencement of in-person instruction, as set forth in Section XII, above will be full distance learning days where teachers will do a brief check-in with their students at the beginning of the school day and make themselves available to support student asynchronous learning on these days. The remainder of these days will be used by unit members for their own planning and preparation for the In-Person/Concurrent Instructional Model and to receive any support necessary to be prepared for the return of students.

As part of these three days of preparation, the District will provide training on the following subjects:

- i. Effective use of Universal Design for Learning to ensure access and instruction in the concurrent instructional model;
- ii. Using new technology to provide and enhance instruction;
- iii. Site health and safety protocols and requirements.

In addition, any staff who have not received the Universal Design for Learning (UDL) training in August 2020 will be provided the UDL training.

Staff who complete the three (3) days of preparation will be provided seven hundred fifty dollars (\$750).

Section XIV: Technical Support Teacher

In order to provide on-going, immediate support to staff who may be facing technology issues related to the return to in-person instruction in a concurrent model, the parties agree to create a temporary Technology Support Teacher for the duration of this school year, 2020-21.

The Technology Support Teacher (TST) is not intended to supplant the work of Site Technicians who are classified employees represented by Service Employees International Union Local 1021. Sites shall be provided one Technology Support Teacher (TST) for every five hundred (500) students or fraction thereof, per the chart below:

0 to 500 students	1 Technology Support Teacher
501 to 1000 students	2 Technology Support Teachers
1001 to 1500 students	3 Technology Support Teachers
1501 to 2000 students	4 Technology Support Teachers
2001 to 2500 students	5 Technology Support Teachers

Technology Support Teachers will receive the Extra Pay for Extra Duty "E" stipend of \$2305. Principals shall survey the bargaining unit staff by email and staff meeting to determine the number of qualified bargaining unit staff who may be interested in the position.

Staff who perform the TST position shall provide technical assistance including troubleshooting and demonstration of technology and applications to co-workers and shall, when necessary, work in coordination with site technicians. TST staff may also test and pilot additional technology products for subsequent use and will provide feedback to the District.

If there are more applicants than positions available at a school site, the most senior applicants will be awarded the positions provided their technological experience and skills are comparable to other applicants.

Section XV: Non-precedent setting: This agreement is non-precedent setting.

Section XVI: Expiration Date: This Agreement shall expire in full without precedent on the last day of the 2020-2021 traditional school year, unless extended by mutual written agreement.

For the District:



Superintendent
Jorge A. Aguilar

Date: 3/20/21

For SCTA:



President
David Fisher

Date: 3/20/21

**Elementary Learning Model
AA/BB**

	Monday	Tuesday	Wednesday	Thursday	Friday
In person at School	Full Day DL	Group A	Group A	Group B	Group B
Distance Learning from Home	Group A,B, &C	Group B and C	Group B and C	Group A and C	Group A and C
	Lunch	Lunch	Lunch	Lunch	Lunch
	Asynchronous Work/Targeted and Small Group Support/Planning time for Teachers	Asynchronous Work/Targeted and Small Group Support/Planning time for Teachers	Asynchronous Work/Targeted and Small Group Support/Planning time for Teachers	Asynchronous Work/Targeted and Small Group Support/Planning time for Teachers	Asynchronous Work/Targeted and Small Group Support/Planning time for Teachers

**Secondary Learning Model
AA/BB**

(Sample Schedule)

Group A - T/W	Group B - Th/F	Group C - DL		
Monday 1-6 All groups DL	Tuesday (A in person B & C DL.)	Wednesday (A in person B & C DL.)	Thursday (B in person A & C DL)	Friday (B in person A & C DL)
Full day DL - all groups Synchronous, asynchronous, targeted support	Per 1	Per 2	Per 1	Per 2
	Per 3	Per 4	Per 3	Per 4
	Per 5	Per 6	Per 5	Per 6
	Lunch	Lunch	Lunch	Lunch
	Per 1 - async; targeted/small group support	Per 2 - async; targeted/small group support	Per 1 - async; targeted/small group support	Per 2 - async; targeted/small group support
	Per 3 - async; targeted/small group support	Per 4 - async; targeted/small group support	Per 3 - async; targeted/small group support	Per 4 - async; targeted/small group support
CT Time	Per 5 - async; targeted/small group support	Per 6 - async; targeted/small group support	Per 5 - async; targeted/small group support	Per 6 - async; targeted/small group support
	Planning time for teachers			

Within the constraints imposed within Article 5, work site schedules will be established by the site.

Administrator and the liaison committee. Work site schedules that will meet the requirements of satisfying transportation and nutrition needs of District students will be determined and provided to the administration by March 25, 2021 in order to make appropriate arrangements for transportation and nutrition services. These schedules will include, but not be limited to, student beginning and dismissal times, instructional periods, preparation times, staff relief breaks, student recesses, lunch periods for staff and students, and the workday or teaching schedule as applicable for individual members of the bargaining unit assigned to the administrator's work site.

Relief Breaks

- The service day shall include twenty (20) minutes of relief breaks at the rate of ten (10) minutes in the morning and ten (10) minutes in the afternoon.
- The site administrator shall be responsible for scheduling the supervision of students during the time established for relief periods.
- A daily fifteen (15) minute a.m. and a fifteen (15) minute p.m. rest break will be provided all seven (7) or eight (8) hour employees.

Each elementary teacher, including but not limited to SDC teachers, will be provided a minimum of 90 minutes prep during asynchronous time.

Elementary Prep Specialist teachers will continue to provide instruction primarily through distance learning but may use in-person instruction when feasible taking into account health, safety and scheduling limitation.

Related services providers and resource specialist will serve students through distance learning and in-person instruction based on student need.

Special education classes will follow the general education schedule. After three weeks of the return to in-person instruction, two SCTA-SCUSD special education work groups (elementary and secondary) will convene to determine whether the current schedule should continue or should be modified based on student in-person participation rates, transportation and other factors that may affect the students' learning environment. Modification may include expansion to four-days of in-person instruction per week.

SCTA and the district agree to meet and confer over schedules and protocols for Child Development prior to commencing instruction on April 8. The parties agree to schedule the first meeting date on Monday, March 22, 2021 at 4 p.m., and the District agrees to include the Director of Child Development as part of the discussion.

PROOF OF SERVICE
State of California, County of, San Mateo

I am employed in County of San Mateo, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1705 Murchison Drive, Burlingame, California, 94010.

On **June 4, 2021**, I served the foregoing documents described as, ***UNFAIR PRACTICE CHARGE, SACRAMENTO CITY TEACHERS ASSOCIATION, CTA/NEA v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT***, on all interested parties in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Jorge A. Aguilar, Superintendent
SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
5735 47TH Avenue
Sacramento, CA 95824
superintendent@scusd.edu

<input checked="" type="checkbox"/> BY MAIL	I am "readily familiar" with practice of collection and processing correspondence for mailing in this office. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Burlingame, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
<input checked="" type="checkbox"/> BY ELECTRONIC	based upon court order or an agreement of the parties to accept service by electronic transmission, by electronically mailing the document(s) listed above to the e-mail address(es) set forth below, or as stated on the attached service list and/or by electronically notifying the parties set forth below that the document(s) listed above can be located and downloaded from the hyperlink provided. No error was received, within a reasonable time after the transmission, nor any electronic message or other indication that the transmission was unsuccessful.

Executed on **June 4, 2021**, at San Mateo, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Maria C. Hernandez