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SB 86 Provides Legislative Proposal for In-Person Instruction

 [BY LEILANI AGUINALDO](#)

 [BY PATTI F. HERRERA, EDD](#)

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On February 18, 2021, the Legislature unveiled its proposal to address in-person instruction in identical bills—[Senate Bill \(SB\) 86](#) and [Assembly Bill \(AB\) 86](#). The bills provide \$2.0 billion for In-Person Instruction Grants and \$4.6 billion for Learning Recovery Grants—the same figures used by Governor Gavin Newsom in his 2021–22 State Budget proposal.

In-Person Instruction Grants

The proposed In-Person Instruction Grants allocate \$2.0 billion to local educational agencies (LEAs) in proportion to their Local Control Funding Formula (LCFF) entitlement using 2020–21 First Principal Apportionment data. Unlike the Governor’s proposal which required LEAs to apply for the grants, SB/AB 86 allocate the grants to all eligible LEAs unless an LEA opts out. Grant recipients would be required to offer in-person instruction via stable cohorts by April 15, 2021, to vulnerable students identified in the bills—including students with disabilities, foster youth, homeless students, English learners, students unable to access online instruction, disengaged students, and students at risk of abuse. The Legislature intends to give LEAs flexibility to determine prioritization for serving these vulnerable students based on instructional needs, local capacity, and facility availability. Grant recipients also would be required to offer in-person instruction for all students in elementary school by April 15 or within 15 days of reaching an adjusted daily case rate of 7 per 100,000 or lower.

Prior to providing in-person instruction, grant recipients must submit their COVID-19 Safety Plan (CSP) and aligned collective bargaining agreement (CBA) to their county office of education by April 1, 2021. The CSP must include the asymptomatic testing cadence for students and staff detailed in [California Department of Public Health \(CDPH\) guidance](#)—biweekly for LEAs in the red and purple tiers, increasing to weekly if an LEA is in a county with daily case rates greater than 14 per 100,000. LEAs that have a CSP and a corresponding CBA in place by March 15 are exempt from this asymptomatic testing requirement. Also by April 1, an LEA must certify that all of their students have access to technology needed for online instruction.

Notably, SB/AB 86 do not include vaccination of staff as a prerequisite for reopening for in-person instruction—a demand of some stakeholders. Rather, the bills require county public health departments to make COVID-19 vaccines available to staff who are working at a school where students are attending in person.

By the time the bills take effect, LEAs that already have a CBA that supports implementation of their CSP are grandfathered and eligible for the grant. The In-Person Instruction Grants would be allocated to LEAs in April 2021 and available for expenditure through July 30, 2021.

Learning Recovery Grants

The Learning Recovery Grants included in SB/AB 86 are largely similar to the Governor’s proposed Expanded Learning Time Grants (see “[Expanded Learning Time Grant Proposal Details Released](#)” from the January 2021 Fiscal Report) with a few significant differences. Like the Governor’s proposal, grants would be provided to support academic achievement by offering supplemental instruction and support to students. LEAs would receive \$1,000 for each of their homeless students that are enrolled this school year. After funding state special schools, remaining dollars would be allocated to LEAs in proportion to their LCFF entitlement, using 2020–21 First Principal Apportionment data for this calculation. School Services of California Inc. has a [tool](#) available here that provides each LEA’s estimated grant amount using 2019–20 Second Principal Apportionment data since data for 2020–21 is not yet available.

Proposed grants may be used for various strategies to accelerate learning and address student needs, such as extended learning time, professional development, programs to address social-emotional learning, and access to school meals. Activities must commence no later than the 2021 summer break and continue until September 30, 2022. At a minimum, the supplemental instruction and support must be offered to students who are low income, English learners, foster youth, homeless, at risk of abuse, disengaged, or below grade level, and students with disabilities. LEAs are required to use at least 85% of their grants for in-person services. The most significant departure from the Governor’s proposal is a requirement that at least 10% of the grants be used to hire full-time paraprofessionals to provide individualized instruction, prioritized for English learners and students with disabilities.

No application is required for the Learning Recovery Grants, but LEAs must adopt a plan by June 1, 2021, that describes how grants will be used. The California Department of Education will develop a template for the plan which will include a description of how the grants will be used in coordination with federal Elementary and Secondary School Emergency Relief (ESSER) funds. Grants would be provided to LEAs in April and July 2021, and shall be available for use through September 30, 2022.

Other Requirements

In addition to the two grants, SB/AB 86 include requirements that apply to all California schools independent of the funds proposed. All public and private schools must report to the local health officer information about any staff or students that have tested positive for COVID-19. Private schools and LEAs must post their CSP on

their website by April 1, 2021. Finally, SB/AB 86 expand the bimonthly reporting all schools must provide to the CDPH regarding in-person instruction (see “[New Health Directive Requires Continuous Reporting of Instruction](#)” in the January 2021 Fiscal Report).

SB/AB 86 represent a compromise on in-person instruction reached by the Assembly and the Senate. Governor Newsom, however, believes the proposal “doesn’t go far enough or fast enough.” Either SB 86 or AB 86 will need to be heard and passed by both legislative budget committees and by the full Assembly and Senate before it goes to the Governor for his consideration. Future Fiscal Report articles will provide continued updates as negotiations continue.