

Legislative Update: New Requirements for COVID-19 Testing Plans and New Rules for Supplemental Vision Services for Students

March 20, 2023
Number 13

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Two important bills, Senate Bill (SB) 1479 and Assembly Bill (AB) 2329, signed by Governor Newsom in September 2022, require school districts, county offices of education, and charter schools to have a plan for COVID-19 testing in schools and authorize local educational agencies (LEAs) to provide supplemental vision services for students, in addition to those already required by law.

SB 1479: COVID-19 Testing Plan Requirements

SB 1479 added section 32096 to the Education Code, effective as of January 1, 2023, which requires all LEAs to create a COVID-19 testing plan after consulting with their local health departments. SB 1479 specifies that each testing plan must be consistent with California Department of Public Health (CDPH) guidance, which is available [here](#). LEAs can meet this requirement by adopting CDPH's testing [Framework](#). Each LEA is required to post its testing plan on its website.

SB 1479 also requires the CDPH to coordinate COVID-19 testing programs that are currently federally funded or organized under the California COVID-19 Testing Task Force. In coordinating these COVID-19 testing programs, SB 1479 authorizes the CDPH to provide supportive services including technical assistance, vendor support, guidance, monitoring, and testing education, related to testing programs for teachers, staff, and pupils to help keep schools operating safely for in-person learning. SB 1479 also encourages the CDPH to expand its contagious, infectious, or communicable disease testing guidance and other public health mitigation efforts to include pre-kindergarten and childcare centers.

In addition, SB 1479 authorizes local educational agencies to designate one staff member to report information on its COVID-19 testing program to the CDPH. Further, the CDPH is required to determine which COVID-19 tests are appropriate for the testing program.

It is important to note that implementation of the provisions of Education Code section 32096 are contingent upon an appropriation in the annual Budget Act or another statute for this purpose. Given that the annual budget will not be finalized until July 1, at this point, it is unclear whether funding will be appropriated, thus implementing these requirements. These provisions will be effective until January 1, 2026.

AB 2329: Supplemental Vision Services

Effective January 1, 2023, AB 2329 added section 49455.5 to the Education Code, authorizing LEAs to utilize nonprofit eye examination providers to provide supplemental vision services that must not replace the vision screenings that are currently required by law.

Education Code section 49452 currently requires that school districts provide adequate sight and hearing testing of every student, and identifies the persons authorized to conduct the examination. Education Code section 49455 further requires a school nurse or other authorized person to evaluate a student's vision during kindergarten, or upon first enrollment or entry of that student in a California school district at an elementary school, and in grades 2, 5, and 8, as specified.

AB 2329 allows LEAs to enter into an agreement with nonprofit eye examination providers, including mobile providers, to provide noninvasive eye examinations, in addition to the mandated screenings currently required under California law as outlined above. AB 2329 requires that the additional vision services authorized under section 49455.5 be noninvasive and provided exclusively for the purpose of providing eyeglasses.

AB 2329 also requires LEAs to provide notice to all parents or guardians of the eye care services that will be provided. The notice must include a form for which the parent or guardian may opt-out of their child receiving such services. The California Department of Education was required to develop and post on its website a sample opt-out form by March 1, 2023. AB 2329 further provides that participating healthcare professionals are immune from civil and criminal liability, and are also immune from any professional license board imposing disciplinary action, for providing authorized services without parent or guardian consent. AB 2329 also provides immunity to participating LEAs.

Takeaways

Given the changes described above, school districts, county offices of education, and charter schools will need to develop a COVID-19 testing plan, after consulting with the local department of health. The CDPH provides a framework that can be adopted to fulfill this requirement, which may be helpful for LEAs.

Additionally, while AB 2329 authorizes school districts, county offices of education, and charter schools to provide vision services through nonprofit eye examination providers, such services must be provided in addition to the screenings currently required by law and must be noninvasive and provided exclusively for the purpose of providing eyeglasses. LEAs must provide an opt-out notice to parents and guardians when providing such services under AB 2329.

If you have any question about SB 1479 or AB 2329, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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