

**BEFORE THE BOARD OF EDUCATION OF THE
SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
RESOLUTION**

**RESOLUTION TO REQUIRE UNIVERSAL INDOOR AND OUTDOOR MASKING OF
STUDENTS ON DISTRICT CAMPUSES AND AUTHORIZING ADDITIONAL
HEALTH AND SAFETY MEASURES INCLUDING REGULAR TESTING OF
STUDENTS TO MITIGATE THE IMPACTS OF COVID-19**

WHEREAS, the Santa Monica-Malibu Unified School District (“District”) adopts this resolution in order to protect and advance the health, safety, and well-being of its employees, students, and the surrounding community;

WHEREAS, COVID-19 has had devastating impacts worldwide, including over 600,000 deaths in the United States,¹ and continues to be a public health threat;

WHEREAS, according to the federal Centers for Disease Control and Prevention (“CDC”), the California Department of Public Health (“CDPH”), and the Los Angeles County Public Health Officer, COVID-19 continues to pose a risk, especially to individuals who are not fully vaccinated, and certain safety measures remain necessary to protect against COVID-19 cases and deaths;

WHEREAS, the more infectious COVID-19 delta variant has caused a substantial rise in COVID-19 cases in Los Angeles County;²

WHEREAS, unvaccinated individuals in Los Angeles County account for 99.6% of COVID-19 cases, 98.7% of COVID-19 hospitalizations, and 99.8% of COVID-19 deaths from December 7, 2021, to June 7, 2021;³

WHEREAS, unvaccinated employees are at greater risk of contracting and spreading COVID-19 within the workplace and to the District community;

WHEREAS, a portion of the District’s students, those who are 11 years of age and under, are not eligible for the COVID-19 vaccine at this time, and thus face an elevated risk of contracting COVID-19;

WHEREAS, not all students and staff who are eligible for COVID-19 vaccination have been vaccinated;

WHEREAS, the CDPH stated that the increased risk faced by unvaccinated student and staff “highlight the continued need for proven COVID-19 prevention strategies including testing

¹ COVID-19 Tracker, <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/>, accessed August 6, 2021

² County of Los Angeles Public Health, Press Release *Delta Variant and Unmasked Intermingling Cause COVID-19 Cases to Increase Four-Fold Since 4th of July*, <http://publichealth.lacounty.gov/phcommon/public/media/mediapubdetail.cfm?unit=media&ou=ph&prog=media&prid=3245>

³ County of Los Angeles Public Health, <http://publichealth.lacounty.gov/phcommon/public/media/mediapubHPdetail.cfm?cur=cur&prid=3201&row=25&st art=26>

unvaccinated peoples in school communities. Therefore, COVID-19 testing in K-12 schools remains a powerful tool for preventing transmission of COVID-19.”;⁴

WHEREAS, Education Code Section 35160 authorizes the governing board of any school district to initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established;

WHEREAS, Education Code Section 49400 authorizes and requires a school district to give diligent care to the health and physical development of pupils;

WHEREAS, Education Code Section 49403 requires the governing board of any school district to cooperate with the local health officer in measures necessary for the prevention and control of communicable disease in schoolage children;

WHEREAS, Education Code Section 49451 provides that “whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.”;

WHEREAS, the CDPH has recognized “access to a robust COVID-19 testing program as an available additional safety layer” as a vital part of returning to safe and full in-person instruction for K-12 schools in California;⁵

WHEREAS, the elevated risk of exposure faced by unvaccinated students can be mitigated by regular screening testing regardless of vaccination status, which further reduces the likelihood of in-school transmission and outbreaks on campus;

WHEREAS, to utilize the prevention strategy of testing, the District Board of Education intends to implement weekly surveillance COVID-19 testing of students, regardless of vaccination status, at no cost to students and families;

WHEREAS, the CDPH requires masks for all individuals indoors in K-12 schools, regardless of vaccination status;⁶

WHEREAS, the CDPH further requires that, “[c]onsistent with guidance from the 2020-21 school year, schools must develop and implement local protocols to enforce the mask requirements.”;⁷

WHEREAS, the District recognizes that a limited number of students and staff may be eligible for an exemption or accommodation from the District’s testing or face mask requirements for reasons including medical condition, disability, or religion, and the District intends to provide for such exemptions or accommodations to the extent required by law; and

⁴ CDPH, *K-12 school-based COVID-19 testing strategies for school year 2021-22*, available at: <https://testing.covid19.ca.gov/wp-content/uploads/sites/332/2021/07/School-Testing-Considerations.pdf>

⁵ CDPH, *COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year*, last updated August 2, 2021, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2021-22-School-Year.aspx>

⁶ CDPH, *Guidance for the Use of Face Coverings*, last updated July 28, 2021, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>.

⁷ CDPH, *COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year*, last updated August 2, 2021, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/K-12-Guidance-2021-22-School-Year.aspx>.

WHEREAS, the District Board of Education takes seriously its obligation to protect the health and safety of its community, and desires that employees and students be able to return to schools to the greatest extent reasonably possible, and engage with each other in the pursuit and dissemination of knowledge without undue fear of COVID-19 infection.

NOW, THEREFORE, IT IS HEREBY RESOLVED:

1. That as part of the plan for the return of students and employees to on-campus learning and teaching for the 2021-2022 school year, the District will incorporate weekly surveillance COVID-19 testing into regular school operations, with such testing to take place at school, during the school day, at no cost to students and families.
2. That as soon as practicable following approval of this Resolution, the Superintendent, or designee, shall develop and implement procedures to track the COVID-19 test results of students in a secure system designed to protect the privacy of students in accordance with applicable laws.
3. That the District Board of Education hereby adopts the following requirements for all District **students**:
 - A. Upon the start of the school year, all students and staff, regardless of vaccination status, will be required to undergo regular mandatory polymerase chain reaction (“PCR”) testing. Evidence of negative COVID-19 test result will be required in order to have access to District campuses and facilities.
 - B. If a student refuses testing, but District or school personnel have good reason to believe the student is suffering from an infectious disease, the student shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist;
 - C. In order to access District campuses and facilities, all students are required to wear a face mask, indoors and outdoors, regardless of vaccination status and test results, subject to exemptions or accommodations as authorized by the District Board of Education and/or Superintendent or designee. Exceptions shall include supervised outdoor activities where necessary physical distancing can occur.
4. That the District Board of Education hereby authorizes the following provisions relating to **Exemptions**:
 - A. With respect to the testing and/or face mask requirements, students may request an exemption or accommodation on religious grounds, or on the basis that a disability, medical condition, mental health condition, or hearing condition that is documented by a medical practitioner prevents the student from wearing the mask or from undergoing the testing. The Superintendent, or designee, shall establish a process for consideration of such requests on an individualized basis, including, but not necessarily limited to, identification of the District contact person(s) responsible for responding to requests, and definition of the specific criteria by which such requests shall be evaluated, which shall comply with law including but not necessarily limited to the Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the California Fair Employment and Housing Act.

- B. Any student receiving an exemption or accommodation from the above testing and/or face mask requirement shall be required to undergo COVID-19 surveillance testing two (2) times per week, with evidence of negative test results being required prior to having access to District campuses and facilities.
5. That regardless of vaccination status, all persons coming onto District campuses and facilities, including, but not limited to, parents and other visitors, shall be required to wear a face mask covering their noses and mouths at all times while on school grounds during school hours and during childcare programs, subject to exemptions or accommodations as authorized by the District Board of Education and/or Superintendent or designee.
 6. The Superintendent or designee shall monitor and report at each Board of Education regular meeting on the progress and on the continuing need for masking, testing, and other protocols.
 7. That the Superintendent, or designee, is delegated authority to establish additional rules governing access of all other persons to District campuses and facilities.
 8. That this decision is effective immediately and that the Superintendent, or designee(s), may take such actions as are necessary and appropriate to implement the Board's action, including notifying employees, parents, and students of the requirements of this Resolution, and authorizing any exceptions to the above requirements.

The foregoing Resolution was adopted by the Board of Education of the Santa Monica-Malibu Unified School District on the 10th day of August, 2021, by the following vote:

AYES: 6

NOES: 0

ABSENT: 1

Jon Kean, President
 Board of Education
 Santa Monica-Malibu Unified School District

I, Ben Drati, Secretary of the Board of Education of the Santa Monica-Malibu Unified School District, do hereby certify that the foregoing Resolution was introduced, passed, and adopted by the Board of Education at its special meeting held on August 10, 2021.

Dr. Ben Drati, Secretary
 Board of Education
 Santa Monica-Malibu Unified School District