

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-3-22

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS since then, California schools have been among the safest places in a community, providing supervised learning environments with universal mask-wearing, access to testing, superior ventilation, and staff who are vaccinated at high rates; and

WHEREAS billions of dollars in investments and countless hours of work by school and public health officials have reduced in-school transmission to minimal levels, far lower than community transmission; and

WHEREAS alternatives to in-person learning leave many students unsupervised or in environments without robust safety measures, in addition to losing the benefits to mental health, social-emotional well-being, and academic progress of in-person learning; and

WHEREAS the temporary statutory authorization for public schools to receive state funding for providing distance learning if they are not open for in-person instruction due to the COVID-19 pandemic sunset on June 30, 2021, as intended when it was initially authorized, and state law governing the 2021-22 school year again reflects the State's long-standing policy of requiring public schools to provide in-person instruction as a condition of receiving state funding; and

WHEREAS on August 16, 2021, I issued Executive Order N-12-21, Paragraph 8, waiving certain procedural requirements for retired teachers to return to the classroom and earn compensation without impacting their retirement benefits; and

WHEREAS on March 12, 2020, I issued Executive Order N-25-20, Paragraph 7; on March 21, 2020, I issued Executive Order N-35-20, Paragraph 3; and on August 16, 2021, I issued Executive Order N-12-21, Paragraph 7, which waived limitations for other retirees from public employment to return to work and earn compensation without impacting their retirement benefits; and

WHEREAS retired teachers and retired classified personnel have answered the call to return to the classroom to support the safe return to in-person instruction during the 2021-22 school year; and

WHEREAS California's commitment to the twin goals of COVID-19 safety and in-person learning have yielded remarkable results, with California schools accounting for less than 0.3% of school closures nationwide leading into the winter holidays, despite educating 12% of the nation's students; and

WHEREAS since Thanksgiving, the statewide case rates and hospitalization rates have increased dramatically; and

WHEREAS this surge is being driven by the recent emergence of the Omicron variant, which early data suggest is more transmissible but less virulent

than the Delta variant, and which has recently been estimated to account for approximately 70% of cases sequenced nationally; and

WHEREAS even when faced with the surge of cases in Fall 2021 driven by the Delta variant and the current surge of cases driven the Omicron variant, the State has remained firmly committed to using all tools available to enable schools to remain safe and open for in-person instruction; and

WHEREAS to that end, the State has invested further in school safety measures by supplying over 13 million at-home antigen tests to schools beginning in early December 2021, conducting over 3.6 million COVID-19 tests for students and staff through school-testing programs at over 4,400 school sites, supplying millions of N95 respirators to schools statewide, and continuously promoting the benefits of vaccination to all students ages 5 and older and making vaccines readily available to the public—efforts that have led to over 80 percent of eligible Californians receiving at least one vaccine dose so far (including 49 percent of Californians aged 5 to 17); and

WHEREAS because of transmission that occurred outside the school over the winter holidays, schools nationwide are experiencing short-term staffing shortages, which has put a heavy strain on school operations; and

WHEREAS providing temporary flexibility regarding administrative processes and other requirements will further support schools to maintain orderly operations with qualified staff, continuing to keep students in supervised learning environments with strong COVID-19 safety measures and learning opportunities; and

WHEREAS providing additional flexibility to support retired teachers and classified personnel who have returned to support safe, in-person learning, and eliminating barriers that may prevent additional retired teachers and classified personnel from returning to support safe, in-person learning, will also further assist schools to maintain orderly operations, continuing to keep students in supervised learning environments with strong COVID-19 safety measures and learning opportunities; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with the statutes specified in this Order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The temporary flexibilities authorized through this Order shall apply to a school district, county office of education, or charter school only if the school district superintendent, county superintendent of schools, or charter school leader, or such officials' designee, makes a written finding, which shall be signed by the official or designee and retained and made available to any member of the public upon request, that

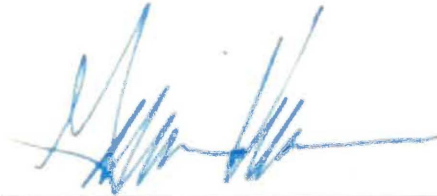
temporary staffing flexibility will support the school district, county office of education, or charter school in maintaining in-person services for students despite staffing shortages caused by the Omicron-driven rise in COVID-19 cases.

2. For the purposes of providing emergency substitute teaching services as authorized by Title 5, California Code of Regulations section 80025(b), temporary certificates may be issued pursuant to Education Code section 44332(a) without regard to whether the recipient has a pending credential or permit application or has made the statement under oath required by that section, and any contrary requirements of section 44332(a) are hereby suspended through March 31, 2022. All applicants receiving temporary certificates pursuant to section 44332(a) must meet the remaining eligibility requirements in section 80025 and all requirements of Education Code section 44332.6.
3. The limitations in California Code of Regulations, Title 5, sections 80025.1(c) and 80025.3(a) and (b), as modified via Section 47 of Assembly Bill 167, Chapter 252, Statutes of 2021, on the duration for which substitute teachers can be assigned to a single general education assignment are extended to no more than 120 days through March 31, 2022.
4. The requirement under Education Code 46300 and any related statute or regulation that students be under the direct supervision of a certificated employee of a school district or county office of education for calculating average daily attendance for apportionment is suspended for each day, or portion thereof, that a student teacher is assigned to a classroom without the supervision of a credentialed teacher through March 31, 2022.
5. The post-retirement compensation limitations in subdivisions (d), (f), and (g) of Education Code section 24214 are suspended for compensation earned during the 2021-22 school year through March 31, 2022.
6. For a retired member that has attained the normal retirement age at the time the compensation was earned, the post-retirement compensation limitations and procedural requirements in subdivisions (a) through (g) of Education Code section 24214.5 are suspended for compensation earned during the 2021-22 school year through March 31, 2022.
7. For retired classified and certificated personnel who have attained the normal retirement age at the time the compensation was earned, the 180-day break in service requirement under subdivision (g) of Government Code section 7522.56 is suspended for compensation earned from the public employers identified in Education Code section 26113(a)(1) and (3) through March 31, 2022.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 11th day of January 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH.D.
Secretary of State