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California State Senate

SENATOR
SUSAN RUBIO

TWENTY-SECOND SENATE DISTRICT



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August 12, 2020

The Honorable Hannah-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, CA 95814

Subject: Senate Judiciary Committee Hearing on August 18, 2020 – Request to Hear AB 1384 (O’Donnell): COVID-19 Liability Protection to Local Educational Agencies

Dear Senator Jackson,

The undersigned members would like to respectfully request your consideration in hearing AB 1384 authored by Assemblymembers O’Donnell, Boerner Horvath, Cunningham, Daly, Fong, Grayson, Irwin, Low, Quirk-Silva, Blanca Rubio, and Smith and Senators Susan Rubio, Allen, Borgeas, Dodd, and Hill. The co-authors listed above, some being long-time teachers, former administrators or having worked on education policy, ask that this critical piece of legislation move forward this cycle giving the detrimental fiscal impact this will have on school districts.

This **bipartisan** bill is supported by over 230 statewide associations and local educational agencies (LEAs) and was recently amended to address feedback received from various stakeholders during the summer legislative recess. While we recognize both legislative houses have a significant number of issues to address before the end of this legislative session, AB 1384 is an urgent measure that deserves to be considered by your Committee and the entire legislative body given the implications the global COVID-19 pandemic is having on the communities and children we serve.

The current unprecedented educational challenges posed by COVID-19 have created a crisis in learning loss, equity, and safety for students and staff. In our capacity as lawmakers to be good stewards of taxpayer resources, LEAs ask that we provide the temporary and narrow legal protection necessary to support the safe reopening of school facilities and help keep scarce resources in the classroom. Specifically:

- Liability protections against alleged transmission of COVID-19 while at school.

- LEA receives protection only if it implements new COVID-19 health and safety policies.
- Policies must comply with public health requirements and the California Department of Public Health (CDPH) guidance – a higher safety standard than is currently required by law.
- Protection would not impair any existing civil rights of students and employment benefits of employees.

This temporary protection is needed due to the following:

1. **COVID-19 lawsuits will dissolve school district budgets and take away critical resources from the classroom.** COVID-19 claims are being excluded from LEA insurance coverage, meaning litigation costs (regardless of whether the LEA has a winning case) will come directly from an LEA’s general fund, which is intended to serve students.
2. **In-person instruction is required.** Safe, in-person learning will remain the gold standard for closing the achievement gap and meeting students’ social-emotional needs. It is paramount for students in grades TK-12 to have safe options when providing in-person instruction, particularly since K-12 education is compulsory and in-person instruction is mandated by law to the greatest extent possible (SB 98, 2020).
3. **Immediate need for campuses re-opening.** A rising number of schools and counties are currently seeking waivers to provide in-person instruction (in consultation with public health officers and community stakeholders) outlined in the updated state’s reopening framework.

Students and educators will not benefit from the threat of costly litigation arising across California’s thousand-plus LEAs. Without this protection, schools confront enormous apprehension and risks when reopening campuses. As elected officials representing all of California, our school communities need our immediate help to ensure the safety of students and staff is upheld while providing the necessary legal protections critical to the safe reopening of schools.

Thank you for your consideration on setting this bill for a hearing in the Senate Judiciary Committee on Tuesday, August 18, 2020. It is imperative that we hear this measure. If you have any questions, please feel free to contact Krystal Moreno at Krystal.Moreno@sen.ca.gov and cc Sophia Kwong Kim at Sophia.Kwong@asm.ca.gov.

Sincerely,



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Senate District 3

Scott Wick

Senate District 21

Jingjing Chang

Senate District 29

Jimmy Lee

Senate District 13

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Ru Ru

Assembly District 50

James

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Blanca B. Rubio

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Ken Lee Chu

Assembly District 25

Mark A. Ripston

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Stubb-Rodis

Assembly District 52

Tom Daley

Assembly District 69

Vince Fong

Assembly District 34

Sharon Quirk-Silva

Assembly District 34




Assembly District 76



Assembly District 51



Assembly District 34



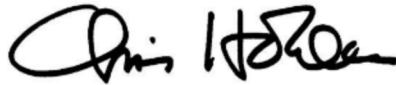
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Assembly District 30



Assembly District 68



Assembly District 41



Assembly District 35



Assembly District 24

cc: The Honorable Governor Gavin Newsom
The Honorable President pro Tempore Toni G. Atkins
The Honorable Speaker Anthony Rendon