



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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LEGAL UPDATE

March 17, 2020

To: Superintendents, Member School Districts (K-12)

From: Kaitlyn Schwendeman, Schools Legal Counsel *KAC*

Subject: Shelter in Place Order
Memo No. 15-2020

As of today, March 17, 2020, the Counties of Marin,¹ Alameda,² Contra Costa,³ San Francisco,⁴ San Mateo,⁵ Santa Clara,⁶ and Santa Cruz⁷ have issued “Shelter in Place” orders. It is anticipated that Sonoma County will issue an order effective March 17, 2020 at midnight.

Although each order is unique, a “Shelter in Place” typically requires that:

- Individuals residing within those counties remain within their residences, and maintain social distancing of at least six feet within outdoor spaces.
- Individuals should only leave their homes for “Essential Activities, Essential Governmental Functions, or to operate Essential Businesses.”
- All businesses, except Essential Businesses, are ordered to cease all activities at facilities within the affected county.
- Essential Businesses and Essential Government are encouraged to remain open and to comply with social distancing.
- All public and private gatherings are prohibited.
- All travel, including non-motor vehicle travel, except Essential Travel and Essential Activities, is prohibited.

Each County will define individually what is “Essential” under the Order. “Essential Government Functions” is defined, in most orders, as “all services

¹<https://coronavirus.marinhhs.org/sites/default/files/Files/Shelter%20in%20Place/Shelter%20in%20Place%20Order%2016%20March%202020.pdf>

² <http://www.acgov.org/documents/Final-Order-to-Shelter-In-Place.pdf>

³ <https://cchealth.org/emergencies/shelter-in-place.php>

⁴ <https://www.sfdph.org/dph/alerts/files/HealthOrderC19-07-%20Shelter-in-Place.pdf>

⁵ <https://www.smcgov.org/shelter-place-faqs>

⁶ <https://www.sccgov.org/sites/phd/DiseaseInformation/novel-coronavirus/Pages/order-health-officer-031620.aspx>

⁷ <https://www.santacruzhealth.org/Portals/7/Pdfs/Coronavirus/Shelter%20in%20Place%20Order%20March%2016%202020.pdf>



needed to ensure the continuing operation of the government agencies and provide for the health, safety and welfare of the public.” Most have included schools and other educational institutions within the definition of “Essential Businesses,” “for the purposes of facilitating distance learning or performing essential functions.” Such a definition would allow teachers and classified employees responsible for the operation of food service and cleanliness to continue to work. Examples of employees who would not be permitted to work are: paraprofessionals, instructional aides, library teachers, library aides, and/or bus drivers.

Going forward, if your county is issued a “Shelter in Place” order, we recommend that your district read the applicable order to determine whether or to what extent schools are included within the definition of “Essential.” If the order permits schools to continue to operate for “performing essential functions,” your district must make a determination as to what is an essential function, and maintain social distancing and sanitation practices for those employees who are present on the school site.

As a reminder, Districts may assign duties to all public employees, except legally employed aliens, pursuant to Government Code §§ 3100 *et seq.* as disaster service workers. Disaster service workers are meant to provide additional assistance for “the protection of the health and safety and preservation of the lives and property of the people of the state from the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and resources.” Government Code § 3100 states, “all public employees are hereby declared to be disaster service workers subject to such disaster service activities *as may be assigned* to them by their superiors or by law.” Such assignment of duties may be consistent or inconsistent with the employee’s typical job duties.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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