



State of California  
Office of the Attorney General

**ROB BONTA**  
ATTORNEY GENERAL

April 11, 2023

**SENT VIA EMAIL**

RE: Guidance Regarding Laws Governing School Closures and Best Practices for Implementation in California

Dear School District Superintendents and Members of Boards of Education:

As some school districts in California experience declining enrollment, our communities may be faced with the prospect of school closures, mergers, and consolidations. For families, students, and staff, losing a beloved neighborhood school can be heartbreaking and scary, and students may have difficulty transitioning to a new school community. Affected families who must drive further may not be able to afford the change and children may travel on longer and less safe public transportation routes. These impacts are serious and can cause educational harm. When these harms affect one group of students more than others, they may also be unlawful.

It is essential that school closure decisions comply with our federal and state civil rights laws. These decisions must be carefully planned to mitigate harm and ensure equal opportunity for all of our students. As such, I write today to set forth school districts' legal obligations while closing, merging, or consolidating schools and to provide best practices for navigating this difficult process. With strategic planning, transparent and inclusive community engagement, and a focus on addressing California's history of unequal education, our school districts can avoid repeating the harms of the past to build better, more equitable educational opportunities for all students.

School closure decisions take place against the backdrop of California's history of segregated schools and neighborhoods, a history which continues to impact California's children today.<sup>1</sup> As of 2020, California remained in the top 10 most segregated states for Black students.<sup>2</sup>

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<sup>1</sup> See [Cal. Task Force to Study and Develop Reparations Proposals for African Americans, Interim Report](#) (June 2022) pp. 220-223 (as of Mar. 29, 2023) (hereafter Task Force Report).

<sup>2</sup> Orfield & Jarvie, UCLA Civil Rights Project, [Black Segregation Matters](#) (Dec. 2020) tables 13 and 14, p. 31 (as of Mar. 29, 2023).

Approximately 51 percent of Black students in California attend schools that are 90- to 100-percent nonwhite schools.<sup>3</sup>

As a way to guard against discrimination and ensure community input, Assembly Bill 1912 (AB 1912) took effect on September 6, 2022, and mandates a community engagement process and an equity impact assessment before school closures, mergers, or consolidations (“closures”) for school districts under financial distress.<sup>4</sup>

Existing California civil rights laws impose independent mandates for all school districts in California considering closures. Some of these mandates overlap with requirements also imposed by AB 1912. Under the California Constitution, a district’s closure policies, criteria, or practices (“policies”) must be crafted to alleviate school segregation.<sup>5</sup> This includes closure-related neighborhood-focused enrollment policies that reinforce school segregation. Additionally, school district closure and reassignment policies that have disproportionate and adverse impacts on students based on race, color, national origin, disability, gender, or sexual orientation may be unlawful.<sup>6</sup> And school districts may not implement policies that “discriminate[] on the basis of the wealth of a district and its residents.”<sup>7</sup>

For districts that are considering closures but do not fall under AB 1912’s mandate, following AB 1912 and the best practices identified in this guidance will reduce a district’s legal risk, improve community trust and parent engagement, and begin to remedy the continuing harms of segregation. I believe that all California children deserve the best and most equitable education opportunities.

**Section I** of this guidance sets forth a financially distressed district’s AB 1912 legal obligations and best practices for all school districts for deep and meaningful community engagement throughout a closure, reassignment, and school redesign process. **Section II** discusses legal requirements and best practices for all districts related to developing equity and disproportionality impact metrics in connection with school closures. **Section III** discusses legal requirements and best practices for all districts related to the closure decision process and transition plan. **Section IV** discusses a financially distressed district’s legal obligations and best practices for all districts in publically announcing the closure and transition plans.

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<sup>3</sup> *Id.* at table 13, p. 31.

<sup>4</sup> Ed. Code, § 41329, subd. (b). AB 1912 took effect on September 6, 2022 and sunsets on July 1, 2028. (Ed. Code, § 41329, subd. (f)).

<sup>5</sup> *McKinny v. Oxnard Union High School Dist. Bd. of Trustees* (1982) 31 Cal.3d 79, 92–93 (*McKinny*); *Crawford v. Bd. of Education of the City of L.A.* (1976) 17 Cal.3d 280, 301–302 (*Crawford*); *Jackson v. Pasadena City School Dist.* (1963) 59 Cal.2d 876, 882 (*Jackson*).

<sup>6</sup> Cal. Const., art. I, § 7, subds. (a) & (b); Ed. Code, §§ 220, 262.3, & 262.4; Gov. Code, § 11135; Cal. Code Regs., tit. 5, § 4911 & Cal. Code Regs., tit. 2, § 11154; see also *Jackson, supra*, 59 Cal.2d at p. 881.

<sup>7</sup> *Serrano v. Priest* (1971) 5 Cal.3d 584, 604.

## I. AB 1912 and the Community as an Equal Partner

### A. Legal Requirements

Under AB 1912, codified at Education Code section 41329, financially distressed school districts considering school closures must conduct an equity impact analysis and undertake a community engagement process that provides the public with the set of metrics or criteria proposed for closure decisions so that “the public can provide input.”<sup>8</sup> Following the analysis, and if the school district proceeds with closures, it must provide recommendations regarding school closures to the public at a regularly scheduled meeting and “share how it prepared its list” and “review and consider the feedback presented at the public meeting” before making a decision on closures.<sup>9</sup> Once a final decision is made, it too shall be presented to the public at a subsequent regularly scheduled meeting and “include a review of how public input was incorporated into the final recommendation.”<sup>10</sup> No “affirmative action” by a school district to “implement a school closure” can be made until “it adopts a resolution concluding that the community engagement process . . . has been completed.”<sup>11</sup>

Once the resolution is adopted, the district must provide school closure information to parents and students in multiple formats, including by email and paper notifications.<sup>12</sup> The information must be translated into the parent or guardian’s primary language and include the date of the approved closure or consolidation, the pupil’s new school assignment, school district resources to support the student’s transition, and school district contacts for additional information.<sup>13</sup> The process from the initiation of the equity impact analysis to the notification of parents and students of a closure decision, “shall not take more than 12 months.”<sup>14</sup>

These requirements apply not only to decisions made by districts’ governing school boards, but also to closure decisions considered by any trustee or administrator appointed through an emergency funding apportionment.<sup>15</sup>

For all school districts, including non-financially distressed school districts, it is best practice to approach the school closure and redesign process, including the AB 1912 process, as one part of a broader, multi-year equity effort between the community and school district aimed to alleviate entrenched disparities in educational opportunity and improve student achievement for all students.<sup>16</sup>

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<sup>8</sup> Ed. Code, § 41329, subd. (a)(1).

<sup>9</sup> *Id.*, subd. (a)(2).

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Id.*, subd. (e).

<sup>15</sup> *Id.*, subd. (c).

<sup>16</sup> See Oakes et al., [Community Schools: An Evidence-Based Strategy for Equitable School Improvement](#) (June 2017) (as of Mar. 29, 2023).

## B. Best Practices: Community Engagement Process

Experts who have studied school closures across the country recommend meaningful participation and true collaborative problem solving between the district and the community throughout a school district's closure and redesign process.<sup>17</sup> Studies show that deep community engagement pays dividends beyond school closures: increased parent and student engagement leads to better academic achievement and attendance, which in California leads to more funding and decreased likelihood of further closures.<sup>18</sup> Experts advise that community engagement be viewed as a process similar to how a city provides basic services to its residents, requiring "maintenance and constant attention to prevent a major expensive situation from occurring."<sup>19</sup>

Because the district must take reasonable steps to alleviate racial segregation, no matter the source of segregation, the district should consider approaching the closure process as a racial equity effort.<sup>20</sup> Frank and respectful conversations about difficult topics, like a district's prior (and current) decisions to construct schools and/or draw school attendance boundaries that segregate white students from students of color, will build necessary trust with marginalized communities.<sup>21</sup> Such decisions have caused some communities of color to see school closures as what one scholar describes as "the culmination of multiple generations of racism and injustice and a blatant disregard of the fundamental reality within which a community understands itself."<sup>22</sup> Districts must be aware of this reality in order to understand why communities of color may inherently distrust actions by school officials today, even those aimed to improve school quality. Without this awareness, school administrators may mistakenly believe that community outrage over school closures is based on parents' disregard for school quality, rather than distrust based on history and experience.<sup>23</sup>

These conversations may be facilitated through public meetings of a district advisory committee formed for the purpose of a school closure or redesign process.<sup>24</sup> In any public

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<sup>17</sup> Ewing, *Ghosts in the Schoolyard* (2018) p. 161; see also Divided Community Project and Mershon Center for International Security Studies, [Working Together to Advance Racial Equity: Planning Truth Commissions and Other Initiatives](#) (2021) p. 4 (as of Mar. 29, 2023) (hereafter Racial Equity Guide).

<sup>18</sup> See Keltly & Wakabayashi, [Family Engagement in Schools: Parent, Educator, and Community Perspectives](#) (Oct.-Dec. 2020) (as of Mar. 29, 2023); Oakes et al., *supra*, at p. 6; Epstein & Sheldon, [Present and Accounted for: Improving Student Attendance Through Family and Community Involvement](#) (May 2002) 95:5 *Journal of Educational Research* 308 (as of Mar. 29, 2023).

<sup>19</sup> Racial Equity Guide, *supra*, at p. 12.

<sup>20</sup> See *McKinny, supra*, 31 Cal.3d at pp. 92–93; *Crawford, supra*, 17 Cal.3d at pp. 301–302; *Jackson, supra*, 59 Cal.2d at p. 882.

<sup>21</sup> See Task Force Report, *supra*, at pp. 220–223; Gordon et al., U. of Chicago Consortium on School Research, [School Closings in Chicago](#) (2018) p. 36 (as of Mar. 29, 2023).

<sup>22</sup> Ewing, *supra*, at p. 127.

<sup>23</sup> *Ibid.*; see also Gordon et al., [School Closings in Chicago](#) (2018) p. 36 (as of April 3, 2023).

<sup>24</sup> See Cal. Dept. of Education, [Closing a School Best Practices Guide](#) (as of Mar. 29, 2023). See also Ed. Code, § 17389. A district is required to form a district advisory committee to advise the district prior to the sale, lease, or rental of any excess real property. (Ed. Code, § 17388.)

meeting on closure, the district should recognize the diverse concerns, needs, backgrounds, and opinions of the community and ensure that any advisory committee be representative of the “ethnic, age group, and socioeconomic composition of the district,” and include at least teachers, administrators, and parents of students.<sup>25</sup>

For those leading racial equity efforts, it is best practice to develop priorities for the past, present, and future with the community.<sup>26</sup> To do so, the committee should meet publically and regularly and solicit public feedback.<sup>27</sup> Experts advise that the district, any committee, and the public agree on and separate urgently-needed immediate changes from long-term priorities that require time.<sup>28</sup> And because research shows that some past school closures have disproportionately affected Black students and caused disproportionate academic, behavioral, and transportation harms to Black students, the community engagement process can help the district identify less discriminatory alternatives and prevent such harm.<sup>29</sup>

A transparent and community-centered process can help ensure an end result that reflects the community’s interests. For example, in 2013, the Chicago mayor’s office announced a massive wave of school closures, which displaced about 11,000 students.<sup>30</sup> Although Chicago Public Schools held forums to solicit community input, parents, students, and teachers felt that the district was not responsive to their input and they held protests and hunger strikes.<sup>31</sup> In 2018, two Chicago schools offered a different approach. The Jenner School was an under-enrolled K-8 school serving Black students from a housing project and was located a few blocks away from Ogden International, an overcrowded K-12 school serving primarily white and wealthy students.<sup>32</sup> When the Jenner School faced the possibility of closure, students, parents, and community leaders worked together to propose that Jenner serve as a grade 5-8 satellite campus to relieve overcrowding at Ogden and connect Jenner with better resources.<sup>33</sup> The solution, though difficult, was supported by the community.<sup>34</sup>

Finally, districts can use AB 1912’s equity impact analysis process not just as a step in the closure process, but as an opportunity to assess resource allocation within the district, in order to ensure a quality, equitable education for all students. As part of the school closure and

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<sup>25</sup> Cal. Dept. of Education, *supra*. See also Ed. Code, § 17389; Mizrahi, [Community Organizing Principles and Practice Guidelines](#) (2014) p. 9 (as of Mar. 29, 2023).

<sup>26</sup> Racial Equity Guide, *supra*, at p. 11.

<sup>27</sup> Cal. Dept. of Education, *supra*.

<sup>28</sup> Racial Equity Guide, *supra*, at p. 7.

<sup>29</sup> *Id.* at p. 4.

<sup>30</sup> Belsha, [Behind Sale of Closed Schools, a Legacy of Segregation](#), The Chicago Reporter (Jan. 13, 2017) (as of Mar. 29, 2023).

<sup>31</sup> See Ewing, [“We Shall Not Be Moved”: A Hunger Strike, Education, and Housing in Chicago](#) (Sept. 21, 2015) The New Yorker (as of Mar. 29, 2023).

<sup>32</sup> Karp, [Two Schools at Opposite Ends Of Income Divide Become One](#), WBEZ (Sept. 5, 2018) (as of Mar. 29, 2023).

<sup>33</sup> *Ibid.*; Emmanuel, [Lessons from a Chicago school merger: Race, resilience, and an end-of-the-year resignation](#), Chalkbeat Chicago (June 21, 2019) (as of Mar. 29, 2023).

<sup>34</sup> Emmanuel, *supra*.

redesign process, a baseline educational and resource allocation standard can be used along with community input to help ensure every student group has access to a high-quality school as close as possible to their home and to increase and sustain student and parent engagement and support for such schools.

## **II. Developing AB 1912’s Equity Impact Metrics and Anti-Discrimination Law Requirements**

### **A. AB 1912 Statutory Requirements**

Under AB 1912, a school board considering a closure “shall develop a set of metrics for the development of the equity impact analysis and make those metrics public at a regularly scheduled meeting of the governing board of the school district so that the public can provide input regarding the metrics being used to conduct the analysis.”<sup>35</sup>

Under AB 1912, these metrics must include at least all of the following:

1. The condition of a school facility;
2. The operating cost of a school and the associated savings resulting from a closure;
3. The capacity of a school to accommodate excess pupils;
4. Special programs available at the schools being considered for closure and whether those programs will be provided at the same current level at the schools to which pupils will be diverted;
5. Environmental factors, including, but not limited to, traffic and proximity to freeway access;
6. Balance of pupil demographics, including race or ethnicity, pupils with disabilities, English learners, foster youth, and homeless youth, in the schools being considered for closure and the resulting demographic balance of pupils after placement in other schools, in order to determine if the decision to close or consolidate will have a disproportionate impact on any particular demographic group;
7. Transportation needs of pupils;
8. Aesthetics and the opportunity for blight and negative impact on the surrounding community; and

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<sup>35</sup> Ed. Code, § 41329, subd. (a)(1).

9. Impact on feeder school attendance patterns with the closure of any particular school and whether the closure will attenuate attendance at other schools or specialized programs as a result.<sup>36</sup>

### **B. Anti-Discrimination Mandates For All School Districts Considering Closures**

All school districts implementing closures must ensure that those closures satisfy California anti-discrimination mandates. Many California schools continue to be segregated by race.<sup>37</sup> Some school districts have concentrated Black and Latinx students in schools that have less access to staffing and other resources than their white and Asian peers.<sup>38</sup> Under California law, all school districts must provide equal educational opportunity for their students and a district should not allow unequal access to resources to drive any closure metric.<sup>39</sup>

California's Constitution also prohibits deprivation of equal opportunity caused by racial segregation and "school boards should take affirmative steps to alleviate racial imbalance, however created"<sup>40</sup> when considering school closures. All school districts must assess the impact of closure and school siting decisions and undertake "corrective measures to attempt to alleviate school segregation with its accompanying specific harm to minority children[,]"<sup>41</sup> which may include addressing "open enrollment [or] changes in boundary lines of student attendance zones."<sup>42</sup>

In addition, closure and reassignment policies that have disproportionate and adverse impacts on students based on race, color, national origin, disability, gender, or sexual orientation may be unlawful if they are not necessary to meet legitimate education goals or there are comparable closure alternatives with less of a disproportionate impact.<sup>43</sup>

School districts must also abide by the requirements of the federal Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 in connection with school closures.<sup>44</sup> Districts shall provide students with disabilities special education and related aids and services to meet the "individual educational needs of [students with disabilities] as adequately as

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<sup>36</sup> Ibid.

<sup>37</sup> Orfield and Jarvie, *supra*, at p. 30.

<sup>38</sup> See *id.*, pp. 30, 35–36.

<sup>39</sup> Cal. Const., art. I, § 7, subds. (a) & (b); Ed. Code, § 220.

<sup>40</sup> *Serrano v. Priest*, *supra*, 5 Cal.3d at p. 604, citations omitted; see also *McKinny*, *supra*, 31 Cal.3d at pp. 92–93; *Crawford*, *supra*, 17 Cal.3d at p. 293; *Jackson*, *supra*, 59 Cal.2d at p. 882.

<sup>41</sup> *Crawford*, *supra*, 17 Cal.3d at p. 304, quotation marks and citation omitted.

<sup>42</sup> See *McKinny*, *supra*, 31 Cal.3d at p. 97.

<sup>43</sup> Ed. Code, §§ 220, 262.3, & 262.4; Gov. Code, § 11135; Cal. Code Regs., tit. 5, § 4911 & Cal. Code Regs., tit. 2, § 11154.

<sup>44</sup> 42 U.S.C. § 12132; 20 U.S.C. § 794.

the needs of [students without disabilities] are met.”<sup>45</sup> And no student with a disability shall, on the basis of their disability, “be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”<sup>46</sup> Accordingly, districts must take care not to develop closure metrics that penalize or target school sites serving higher concentration of students with disabilities.

Finally, it is unlawful to retaliate against a parent or teacher of a student who makes a complaint of discrimination during a school closure process.<sup>47</sup> Additionally, districts must train employees about their rights and responsibilities, including those under the Whistleblower Protection Act, which forbids retaliation against any employee or job applicant who reports improper activity, including with respect to school closures, if that individual has reason to believe the activity violates the law.<sup>48</sup>

### C. Equity Impact Metrics Considerations

Below are recommendations for how best to develop and implement AB 1912’s nine enumerated metrics and ensure California’s anti-discrimination mandates are met.

#### 1. *Condition of a School Facility*

In developing a metric for the condition of a school’s facilities, a district should assess and disclose how specific district decisions (historic or current) may have led to resource divestments from schools primarily serving students of color. For example, a school district may have chosen to modernize the facilities of a predominately white school, while neglecting a predominately Black school nearby. A wealthier school may have raised PTA funds for landscaping or additional custodial staff, while a school district in a low-income neighborhood had no such funds. A district must always abide by the legal mandate to provide equal educational opportunity, even in the maintenance of its school’s facilities. Thus, a district should not allow unequal access to resources to drive any closure metric. Creating the baseline educational standard discussed in Section I can help a school community assess inequities in past and present resource allocation due to educational segregation or other causes. Where unequal resources, facilities, and recreational space are identified, districts should assess how to repair the harm going forward within the closure and redesign process.

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<sup>45</sup> 34 C.F.R. § 104.33(b)(1)(i); see also *id.* § 104.33(a) (district shall “provide a free appropriate public education to each qualified [student with a disability]. . . regardless of the nature or severity” of the disability).

<sup>46</sup> 20 U.S.C. § 794(a); see also 34 C.F.R. § 104.4(a) (same); 42 U.S.C. § 12132 (“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”).

<sup>47</sup> See e.g., 34 C.F.R. § 100.7.

<sup>48</sup> Lab. Code, § 1102.5.



## 2. *Operating Costs and Associated Savings*

In developing a metric for calculating a school's operating costs and a closure's savings, districts should take into account how past district decisions have concentrated higher needs students at certain sites. The funding received by a school under California's Local Control Funding Formula (LCFF) and federal sources is intended to increase funding for schools who serve students who qualify for free and reduced lunch, students who are English learners, and homeless and foster youth.<sup>49</sup> A school should not be targeted for closure because it serves students with these needs.

In addition, schools with large numbers of students with disabilities may appear to be costlier to operate than a school serving fewer students with disabilities. However, when schools with larger numbers of students with disabilities are closed, funding and spending generally stays in the district, as state funding is allocated based on student attendance in Special Education Local Plan Areas, which are tied to districts and county education offices.<sup>50</sup> It is inappropriate to identify closure-related savings where funding sources (LCFF supplement and concentrations and special education funding) will be used to serve these student groups at a different school. Districts should not develop criteria that, in effect, penalizes schools currently serving students with higher needs.

## 3. *Capacity to Accommodate Excess Pupils*

When assessing for excess capacity, the district should be aware of the way that special day classes serving students with high needs impact school utilization. There are generally half as many students in a special day classroom as a general education classroom due to the students' intensive needs.<sup>51</sup> Districts must avoid any criteria penalizing schools sites with special day classes, which can lower a school's overall enrollment or utilization numbers.

If there is excess capacity at one school and a nearby school is over-enrolled, the district should rely on collaborative problem solving with the community to identify the causes of this disparity and craft a solution that as much as possible avoids closing the under-enrolled school. Special programming, such as a dual-language or STEM immersion program, may increase enrollment. A merger with a satellite campus may allow schools to share resources and enrollment without closing a school site entirely, as in the case of the Ogden and Jenner schools in Chicago.

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<sup>49</sup> See Cal. Dept. of Education, [Local Control Funding Formula Overview](#) (Nov. 18, 2021) (as of Mar. 30, 2023).

<sup>50</sup> Ed. Code, § 56836.14 et seq. See also Willis et al., [California Special Education Funding System Study](#) (Oct. 2020) (as of Mar. 30, 2023)

<sup>51</sup> See, e.g., OEA and OUSD, [Agreement Between Oakland Unified School District and Oakland Education Association For the Period July 1, 2018 through June 30, 2021](#), pp. 79–80 (as of Mar. 30, 2023); [Los Angeles Unified School District, Elementary Schools Staffing Ratios For FY 2022-23](#) (Aug. 2022) appen. 1, p. 25 (as of Mar. 30, 2023).

4. *Special Programs*

There may be site-related special programs at a school that serve the needs of the school's specific student populations. For example, a school may have specific after-school language programs to support students of different backgrounds. Anti-bias and cultural competency training may be particularly necessary to support the merger of a school with a history of providing support to one student population. Districts should consider the harms created by the loss of such programs and move these programs to a receiving school. In addition, certain school facilities may be specially constructed for special education students. Closing a school with these facilities to rebuild them elsewhere may be a poor financial decision.

5. *Environmental Factors*

Districts must be mindful of the environment surrounding a school. Since a school opened, the city may have changed zoning laws and added environmental hazards like new freeways or polluting industries.<sup>52</sup> Environmental factors can significantly affect education quality, but districts should be aware that communities of color in California have been targeted for the placement of polluting industries.<sup>53</sup> Districts should ensure that closure plans as a whole do not disparately impact these communities and should work collaboratively to find the community-accepted balance of harm mitigation and considerations for environmental health and safety.

6. *Balance of Pupil Demographics and Disproportionality*

For financially distressed school districts, AB 1912 mandates not only a demographic description of the schools being considered for closure, but also an analysis of projected demographic shifts after closure and a determination of whether or not a closure decision disproportionately impacts any particular demographic group.<sup>54</sup>

In other words, *it is not sufficient* under AB 1912 for a school district to simply acknowledge, for example, that a closure decision affects many Black students. And, consistent with anti-discrimination laws discussed above in subsection B, a disproportionality analysis must also address the following:

- Whether a closure plan disproportionately impacts students of a certain race, color, national origin, disability, gender, or sexual orientation;
- If it does, whether the closure plan chosen is necessary to meet legitimate, educational goals (if it is not necessary, it cannot go forward);

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<sup>52</sup> Cal. Dept. of Education, [Closing a School Best Practices Guide](#) (as of Mar. 30, 2023).

<sup>53</sup> See, e.g., Task Force Report, *supra*, at pp. 248–266; Bell, [5 Things to Know About Communities of Color and Environmental Justice](#), Center for American Progress (Apr. 25, 2016) (as of Mar. 30, 2023).

<sup>54</sup> Ed. Code, § 41329, subd. (a)(1)(F).

- Whether there are comparable alternatives with less disproportionate impact that meet the goals. If alternatives exist, they must be implemented instead; and
- Whether a closure plan maintains or intensifies racial isolation in the district, taking into account enrollment boundaries, attendance patterns, and feeder school patterns.

A district should also consider the mental health needs of students with disabilities. For example, students with autism are particularly sensitive to change and closure supports need to be planned carefully with a student's individualized education program team.<sup>55</sup> For schools that serve many students in special day classes, the district should assess whether the harms of closing and moving classes outweigh the benefits.

### 7. *Transportation Needs*

California is last in the nation for school bus access and only 18% of California students walk to school.<sup>56</sup> An increase in transportation burden for families can reduce students' time to study, participate in extracurricular activities, and outdoor play.<sup>57</sup> For families with low incomes, the cost of additional school transportation can be exorbitant, and may result in increased absences.<sup>58</sup> Black and Native American students are the least likely to have access to a vehicle and the most likely to be chronically absent compared to their white peers.<sup>59</sup>

Districts should analyze the transportation impacts of their closure plans in order to mitigate these harms and include the cost of these supports in assessing projected closure savings. This impact analysis should consider the district as a whole, the particular impacts on protected student groups, and whether disparities are the result of segregation, neighborhood enrollment boundaries, and/or past school closure decisions. If the impact analysis identifies transportation harms resulting from a closure plan, which disproportionately impact a protected student group (and no less disproportionate closure plan is available), the district should aim to provide the following remedies:

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<sup>55</sup> Nuske et al., [Broken bridges – new school transitions for students with autism spectrum disorder](#) (2019) 23 *Autism* 306 (as of Mar. 30, 2023).

<sup>56</sup> Mays, [California is richer than ever. Why is it last in the nation for school bus access?](#), L.A. Times (June 22, 2022) (as of Mar. 30, 2023).

<sup>57</sup> Lee & Lubienski, *The Impact of School Closures on Equity of Access in Chicago* (2017) 49 *Education and Urban Society* 53, 55.

<sup>58</sup> See Steinberg & Macdonald, The effects of closing urban schools on students' academic and behavioral outcomes: Evidence from Philadelphia (2019) 69 *Economics of Education Review* 25, 40; Mays, [After years of cuts, California could provide school buses for all kids](#), L.A. Times (Feb. 3, 2022) (as of Mar. 30, 2023). A 2014 study concluded that the mileage costs for private vehicle school transportation nationwide was \$6 billion, and time costs were \$8 billion. McDonald et al., [Costs of school transportation: quantifying the fiscal impacts of encouraging walking and bicycling for school travel](#) (2014) *Transportation*, p. 5 (as of Mar. 30, 2023).

<sup>59</sup> Mays, *supra*.

- Placement of special education and other special services in locations that minimize the transportation burden;
- Funded busing, transportation reimbursement, and/or bus passes to students in impacted areas; and
- Online or in-person opportunities for families to connect to coordinate transportation sharing options.

In addition, California law requires schools to develop and maintain a Comprehensive School Safety Plan for students, parents, and school employees to ensure safe arrival and departure.<sup>60</sup> The California Department of Education recommends development of a crossing guard program, safe routes to school, and pedestrian, vehicle, and bicycle policies.<sup>61</sup> School districts should assess the safety impacts of any closure decision and whether they will fall disproportionately on protected students groups. The district should update the safety plans of receiving schools in consultation with law enforcement and the community, taking into account crime and gang activity.<sup>62</sup> The district can train community watchers to be present along the routes to help or intervene if students encounter risks and work with businesses to provide safe havens.<sup>63</sup>

Finally, districts may learn through the community engagement process that families choose schools for reasons surprising to the district.<sup>64</sup> For example, although longer school commutes can impact student achievement, some families choose to travel further to access special programs, integrated education, or a higher quality school.<sup>65</sup> A deep and meaningful community engagement process allows for the community to set priorities and collaboratively problem solve with the district.

8. *Aesthetics and the Opportunity for Blight and Negative Impact on the Surrounding Community*

AB 1912 mandates that financially distressed districts develop a metric which takes into account the negative effects a school closure can have on a community, including the possibility of blight. It is best practice for all districts to consider not only blight, but also a school closure's effects on gentrification, which may be intensified by closures and cause increases in eviction

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<sup>60</sup> Ed. Code, § 32282, subd. (a)(2)(G).

<sup>61</sup> Cal. Dept. of Education, [Compliance Tool for a Comprehensive School Safety Plan](#) (as of Apr. 2, 2023).

<sup>62</sup> See, e.g., *Swan v. Board of Ed. of City of Chicago* (N.D. Ill., Aug. 15, 2013, Nos. 13 C 3623, 13 C 3624) 2013 WL 4401439, at \*8.

<sup>63</sup> *Ibid.*

<sup>64</sup> Nerenberg, Decoupled or doubled? Evaluating geospatial dispersion of student-resident displacement by school closure (2021) 95 Social Science Research 102519, 16.

<sup>65</sup> See, e.g., Nerenberg, *supra*, at pp. 15–16.

and displacement of already vulnerable families.<sup>66</sup> In addition, vacant school properties can become targets for crime and indicate “abandonment” to residents of the community, so a community-centered plan for a school’s use after closure is critical.<sup>67</sup> Existing community members are likely to know best about unmet needs that could be addressed through services and programs in the newly-vacant building.

### 9. *Impact on Feeder School Attendance Patterns*

All school districts must analyze not only how closure decisions impact student demographics at the closing and receiving schools, but also how the decisions may impact patterns at the middle and high school level. A closure decision that maintains or intensifies racial segregation at the middle or high school to which receiving schools feed may be unlawful.

## III. Presenting and Deciding on Schools for Closure and Implementation

### A. AB 1912’s Requirements

For financially distressed school districts, after developing equity impact analysis metrics with community feedback, and undertaking the equity impact analysis, AB 1912 mandates that the district present a set of closure recommendations to the public at a regularly scheduled meeting of the school board for review and feedback.<sup>68</sup> Every metric discussed in Section II above must be included in the equity impact analysis.<sup>69</sup> The public presentation must include the equity impact analysis for each closure, the factors used to identify the closure list, a plan for use of the closed facilities, the criteria and process for reassigning students to other school sites, and options and a timeline for the transition, including improving safe routes to schools and home-to-school transportation needs.<sup>70</sup> For all school districts, AB 1912’s requirements provide a helpful roadmap.

### 1. *Plan for Closed Schools*

All districts should provide a clear plan and resources for the students, teachers, and staff impacted by closures; for financially distressed districts, this is a requirement.<sup>71</sup> If any district is considering the sale or lease of vacated facilities, California law requires the district to create a district advisory committee to investigate and issue recommendations.<sup>72</sup> Here, again, community engagement is critical. A community center, affordable housing, or other services developed in

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<sup>66</sup> See e.g., Pearman & Greene, Stanford Center for Education Policy Analysis, [School Closures and the Gentrification of the Black Metropolis](#), Working Paper No. 21-02 (2022) (as of Apr. 3, 2023).

<sup>67</sup> Garnett, *Disparate Impact, School Closures, and Parental Choice* (2014) U. Chicago Legal Forum 289, 317-319.

<sup>68</sup> Ed. Code, § 41329, subd. (a)(2)(A).

<sup>69</sup> Ed. Code, § 41329, subd. (a)(1).

<sup>70</sup> Ed. Code, § 41329, subd. (a)(2)(A).

<sup>71</sup> Ed. Code, § 41329, subd. (a)(2)(D).

<sup>72</sup> Ed. Code, § 17388.

consultation with the community and other government and nonprofit entities at closed school locations can serve to mitigate harms to the community caused by closures.

## 2. *Student Reassignment*

Studies show that schools chosen for closure are sometimes not the lowest-performing schools, but that students only benefit from school closures if they are reassigned to higher performing schools.<sup>73</sup> Simply closing poorly performing schools is not sufficient to improve academic outcomes for the affected students on average.<sup>74</sup>

Higher quality schools are often in high demand, over-enrolled, and/or not accessible to students from displaced schools, so students in a closing school do not benefit. To improve equitable educational opportunities and abide by the legal mandate to alleviate segregation, all districts should proactively plan for displaced students to access higher equality educational opportunities. In order to create long lasting change, these plans should not only include students in the closure year, but students in the same neighborhood who would have attended those closed schools in later years.<sup>75</sup>

One way to do so is to offer enrollment priority to students displaced by closures and neighborhood students in later years. Priority access should be thoughtfully designed to give students a realistic chance of enrolling in known high quality and college preparatory schools. The community engagement process may identify enrollment processes that create obstacles which maintain or exacerbate segregation and unequal opportunity. For example, low-income households may not have access to broadband and devices at home and will need access to online enrollment systems during the closure process that function well on basic phone and computer operating systems.<sup>76</sup> Satellite enrollment locations should be created and central enrollment office hours should be extended to accommodate caretaker work schedules.

In order to abide by its constitutional duty to alleviate educational segregation, when a school district draws new neighborhood boundaries, it should assess the catchment area of each school and determine whether students' assignments to neighborhood schools perpetuate or alleviate segregation. School districts should assess whether freeways and other geographic features have been used to isolate communities of color in separate neighborhoods and separate schools and breakdown the barriers.<sup>77</sup>

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<sup>73</sup> Nerenberg, *supra*, at p. 3; Steinberg & Macdonald, *supra*, at p. 40; Brummet, *The effect of school closings on student achievement* (2014) 119 *Journal of Public Economics* 108.

<sup>74</sup> Gordon et al., *supra*, at p. 59.

<sup>75</sup> See, e.g., Chavez & Frankenberg, [Integration Defended: Berkeley Unified's Strategy to Maintain School Diversity](#) (Sept. 2009) p. vi (as of Apr. 3, 2023).

<sup>76</sup> Hayes et al., Public Policy Institute of California, [California's Digital Divide](#) (June 2022) (as of Apr. 3, 2023).

<sup>77</sup> Task Force Report, *supra*, at pp. 171–176.

Berkeley Unified School District (BUSD) is one example of a district that has engaged in voluntary redesign to fulfill the constitutional duty to alleviate racial segregation. BUSD expanded the enrollment area of each school by dividing the whole city into only three zones, with certain schools available to multiple residential zones.<sup>78</sup> In determining enrollment priority, Berkeley uses “diversity categories . . . with the goal that the student body at each elementary school reflects the racial and socioeconomic diversity of the total elementary school population in the attendance zone.”<sup>79</sup> These categories include parent income and neighborhood race statistics.<sup>80</sup>

Another approach to address unequal access to well-resourced schools is to implement PTA funding reform. For example, the Santa Monica Malibu Unified School District only allows donations for staff and programs to a central fund, which the district then distributes evenly across all schools, including to schools in less wealthy neighborhoods.<sup>81</sup> Parents may still choose to donate to specific school sites for supplies, equipment, and special events.<sup>82</sup>

All districts should mitigate harms created by school closures with support plans for schools receiving displaced students.<sup>83</sup> Without such a plan, research shows that school closures can adversely affect behavioral and academic outcomes of both displaced students and their receiving-school peers.<sup>84</sup> And school closures can change the social dynamics and cultures of school communities, including students’ sense of belonging, the degree of collaboration and communication, and the level of trust and influence individuals and groups have within the school.<sup>85</sup>

One way to mitigate these harms is to designate welcoming schools and partially relocate students’ support network, which research shows provides some academic benefits.<sup>86</sup> Districts can support the success of a welcoming school model by:

- Evaluating whether closing schools provide special pedagogical or behavioral approaches for certain cultural populations. Districts should acknowledge the particular needs of both the transferring students and the new, combined student population and engage in

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<sup>78</sup> Berkeley Public Schools, [Find Your BUSD Zone](#) (as of Apr. 3, 2023). See also *American Civil Rights Foundation v. Berkeley Unified School Dist.* (2009) 172 Cal.App.4th 207, 213 n. 4 (“The 11 elementary schools are divided among three geographic attendance zones, which are drawn with the goal that each zone reflect the racial or ethnic diversity of the School District as a whole.”).

<sup>79</sup> American Civil Rights Foundation, *supra*, 172 Cal.App.4th at p. 213.

<sup>80</sup> *Id.* at pp. 213–214. The California Court of Appeal upheld this model from a challenge brought under Article 1 of the California Constitution. *Ibid.*

<sup>81</sup> Goldstein, [PTA Gift for Someone Else’s Child? A Touchy Subject in California](#), *New York Times* (Apr. 8, 2017) (as of Apr. 3, 2023).

<sup>82</sup> *Ibid.*

<sup>83</sup> See, e.g., *Swan v. Board of Ed. of City of Chicago*, *supra*, 2013 WL 4401439 at \*7.

<sup>84</sup> Steinberg & Macdonald, *supra*, at p. 26. See also Gordon et al., *supra*, at p. 41.

<sup>85</sup> Gordon et al., *supra*, at pp. 33–44.

<sup>86</sup> Brummet, *supra*, at pp. 120–121.

collaborative dialogue with impacted families regarding their children’s academic, emotional and cultural needs.<sup>87</sup>

- Allowing community feedback to lead culturally appropriate program enhancements at new schools, including re-establishing programs from the closed schools.<sup>88</sup>
- Providing early and consistent engagement with families of children with individualized education programs (IEPs) and English Language Learners (ELL) to ensure a smooth transition that does not interrupt services to students with greater needs.<sup>89</sup>
- Transferring staff from closing schools and actively recruiting new staff to ensure that incoming students have mentors and role models who reflect their identities. For example, Black students are more likely to graduate high school and enroll in college if they have at least one Black teacher by third grade.<sup>90</sup>
- Training all welcoming school staff, providing technical assistance from the central office, and providing additional staff experienced in cultural competency, anti-bias, restorative justice, and closure transitioning for several years to guide students and families in building cross-cultural relationships across the merging school communities.<sup>91</sup>
- Implementing a culturally-responsive Positive Behavioral Interventions and Supports (CR-PBIS), a framework for supporting “students’ behavioral, academic, social, emotional, and mental health.”<sup>92</sup>
- Collecting and analyzing data on academic and emotional impacts on displaced students for at least two years, and adjusting the necessary supports and services based on these results.

The welcoming school model alone is not sufficient to mitigate all harms, as families often choose to send their children to schools other than the designated welcoming schools for a variety of reasons.<sup>93</sup> All districts should also consider dedicating funding and mental health

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<sup>87</sup> See, e.g., *Swan, supra*, 2013 WL 4401439 at \*6–11;

Center on PBIS, [What is PBIS?](#) (as of Apr. 3, 2023).

<sup>88</sup> Center on PBIS, *What is PBIS?*, *supra*.

<sup>89</sup> Ewing & Green, *Beyond the Headlines: Trends and Future Directions in the School Closure Literature* (2021) 51 *Educational Researcher* 58, 61–62 (school closure research has neglected students with disabilities and ELL students).

<sup>90</sup> Gershenson et al., National Bureau of Economic Research, [The Long-Run Impacts of Same-Race Teachers](#), Working Paper No. 25254 (Nov. 2018) p. 33 (as of Apr. 3, 2023).

<sup>91</sup> See, e.g., Kahlenberg et al., [School Integration: How It Can Promote Social Cohesion and Combat Racism](#) (2019) 43 *American Educator* (as of Apr. 3, 2023); Quick, [Fostering Intergroup Contact in Diverse Schools](#) (Jan. 29, 2019) *The Century Foundation* (as of Apr. 3, 2023); Tropp & Saxena, *The National Coalition on School Diversity, Re-Weaving the Social Fabric through Integrated Schools* (May 2018) (as of Apr. 3, 2023).

<sup>92</sup> Center on PBIS, *supra*.

<sup>93</sup> Nerenberg, *supra*, at pp. 5, 16.



access and building a social-emotional learning plan for those students who do not attend welcoming schools.

3. *Options and timeline for transitioning pupils to their new schools*

For all districts, where closures are necessary, best practice is to close schools at the end of a school year to provide adequate transition time for families and staff. A district could also consider pursuing a transparent and planned phase out of a school rather than closing the school outright, in order to reduce disruption for existing students. Despite burdens such as the risk of teacher resignations and other operational difficulties, some research suggests improved student outcomes under phase out plans.<sup>94</sup>

**B. Anti-Discrimination Mandates**

For all school districts, as discussed above in Section II.B, no part of the closure identification process and student reassignment, transition plan and harm mitigation plans may maintain segregation or discriminate against students based on their race, color, national origin, disability, gender, or sexual orientation. And facially neutral closure criteria which disproportionately impacts a protected group may be unlawful.<sup>95</sup> Even if a district has a generally legitimate policy justification for closures, such as budgetary shortfalls or declining enrollment, it must ensure that the specific set of schools chosen for closure does not result in discriminatory impact on protected student groups. If such an impact is projected, the school district must consider and adopt a less discriminatory, comparably effective set of closures, if available.<sup>96</sup>

**IV. Approval and Notification of Closure Plan**

Under AB 1912, if a school district has completed the prior requirements, then at a subsequent regularly scheduled meeting, the district may present its final closure recommendations, along with a review of how public input was incorporated.<sup>97</sup> The closure recommendations can only be approved after the district adopts a resolution concluding that the community engagement process was completed.<sup>98</sup> Once a school board approves closures, the district must provide closure-related information to parents and students in email, hardcopy, and other formats, in the parent's primary language.<sup>99</sup> The notification must include the date of closure, the students' new school, available support resources, and school district contacts for information.<sup>100</sup>

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<sup>94</sup> See Kemple, The Research Alliance for New York City Schools, [High School Closures in New York City](#) (Nov. 2015) pp. 37–39 (as of Apr. 3, 2023).

<sup>95</sup> See, e.g., U.S. Dept. of Ed., [Resolution Agreement, Mt. Diablo Unified School District](#), OCR Case No. 09-11-1164 (10/6/2017) pp. 15–16 (as of Apr. 3, 2023).

<sup>96</sup> See *Darensburg v. Metropolitan Transportation Com.* (9th Cir. 2011) 636 F.3d 511, 519.

<sup>97</sup> Ed. Code, § 41329, subd. (a)(2)(C).

<sup>98</sup> *Ibid.*

<sup>99</sup> Ed. Code, § 41329, subd. (a)(2)(D).

<sup>100</sup> *Ibid.*

School districts should make closure-related information as widely accessible as possible for a successful transition. In addition to AB 1912's requirements, a district should update its website with key information, consider staffing a hotline to answer inquiries, and hold community or town hall meetings. Some meetings should be held on evenings and on weekends to accommodate work schedules, and staff should be available to answer questions in the parent's primary language.

## V. Conclusion

We must all accept the challenge of protecting California's students and communities from inequality and injustice. Adhering to this guidance is one step in the right direction.

In summary, AB 1912 requires school districts to conduct an equity impact analysis of various factors and, consistent with existing anti-discrimination law, to identify and address any disparate harms that a closure may cause. In addition, in considering criteria for closures, a district must ensure it alleviates, and does not maintain, school segregation, and create a closure and redesign plan that provides educational equality for all. For a successful equity impact process, districts can work with experts and create community advisory groups. A district should view the equity impact analysis with the goal of maximizing equal opportunity and the quality of education it provides to all of its students.

My office looks forward to working with our school district partners to ensure equal education opportunities for every student in California. And I will continue to use the authority vested in the Office of the Attorney General to pursue investigations to protect the rights of all students to be free from discrimination, in all its forms.<sup>101</sup> I encourage those with information regarding suspected practices in violation of state or federal law to report them to the Bureau of Children's Justice in the Civil Rights Enforcement Section of my office, through the online complaint form located at <https://oag.ca.gov/bcj/complaint>.

Sincerely,



ROB BONTA  
Attorney General

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<sup>101</sup> See, e.g., Cal. Const., art. V, § 13 (“Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction...”).