

MEMORANDUM OF UNDERSTANDING BETWEEN FREMONT UNION HIGH SCHOOL DISTRICT and FREMONT EDUCATION ASSOCIATION School Closure Related to Coronavirus/COVID-19

January 4, 2021

The Fremont Union High School District ("District") and Fremont Education Association ("Association") enter this Memorandum of Understanding ("MOU") regarding the opening of schools as related to COVID-19.

1. **On Duty – Working Remotely:** Bargaining unit employees have the option to begin the second semester of the '20-'21 school year working remotely; however, it is understood that the District may shift to other instructional models that would require bargaining unit employees to provide in person instruction. The District and FEA will meet regularly to review California Department of Public Health, Santa Clara County Department Public Health (SCCPHD), Cal OSHA, and neighboring county LEA's guidelines in determining safest and best educational practices as we determine stages in returning to normal in-person school.
2. If the SCCPHD ascertains that the COVID-19 community transmission risk level falls to a tier which allows for the initiation of new in-person instruction procedures, and the District establishes that the appropriate support for student learning requires bargaining unit employees to report to the workplace, then FEA and the District engage in a period of negotiation no longer than two weeks, unless mutually agreed to extend the timeline, to bargain the effects upon bargaining unit employees.
3. The District and FEA agree that the learning needs of students will be the driving factor for requiring bargaining unit members to be present on campus. To that end, the District shall consult with FEA about the process for determining which student groups will be invited to school, the rationale for the District's decision, as well as communicate to FEA the District's procedures for how it estimates the number of students who will engage in the on-site, in person learning opportunity. Both parties agree that having a situation where the number of requisite staff members physically present exceeds the learning needs of students is not advisable.

Illustrative example of a potential roll out:

On January 15, SCCPHD announces that schools can reopen for instruction at 25% capacity as of Feb 1, with masks, distance protocols, and ventilation standards (articulated in Appendix A of this MOU).

On January 16, the District formally informs FEA that we would like to target cohorts of dependent learners (e.g. some EL's, some SPED, AVID, students with lots of D's and F's) for in person instruction effective February 22.

***Jan 16 – Feb 1:* FEA and the District engage in bargaining the effects upon employees who may be required to return to the work site due to the District's decision to bring back groups of dependent learners. Some examples of effects may include ensuring that bargaining unit employees don't have to do two preps for both in-person and remote instruction for the same class period, ensuring that class size ratios are not exceeded (i.e. remote students and in-person students should both count) ensuring that prep periods are supervision free, procedures for safety protocol violations, and supplemental payment for teachers who work beyond or outside of their duty day.**

In addition to bargaining the effects, The District and FEA shall engage in thoughtful conversations about how best to serve the targeted student populations. For example, might the desired student outcomes be attained by asking for a coalition of the willing bargaining unit employees as opposed to mandating reluctant employees? What remote strategies might we establish or amend that might also reach the desired student outcomes? How did the District

determine the number of invited students who will physically show up? How do we account for the possibility of that number changing from week to week?

4. **Professional duties during full Remote Learning Instructional Model:** Bargaining unit employees working remotely shall perform professional duties relating to their assignment remotely.
 - a. **Synchronous** - Teachers will start every class synchronously with a uniform format to take attendance, for interactive review of class expectations, and check-in for the final 10 minutes. AB 77 defines remote (distance) learning as “online interaction, instructional television, video, tele-courses, or other instruction that relies on computer or communications technology” (section 43500). For example, but not limited to:
 - i. 30 minutes of classroom check in – take attendance, review content and the day's activity.
 - ii. 50 minutes of synchronous class activities. Group work, project, discussions, content research, content practice, etc. This aspect can be done in breakout rooms (Zoom), individually, in a Zoom meeting, chat room, etc.
 - iii. 10 minutes of video classroom, review classwork, attendance check, exit ticket, etc.
 - b. **Attendance:** Teachers will provide attendance and checkout procedures at the beginning of classes and check out procedures at the end of each scheduled period. Common and consistent attendance procedures are important for student success and understanding. In addition, common procedures allow staff to identify students who are struggling with access to curriculum, so that interventions can be implemented.
 - c. **Office Hours:** Bargaining Unit Employees will be available to students during designated office hours or tutorial per the distance learning schedule. Understanding that remote learning may make these times difficult for some members and students, in consultation with administration, bargaining unit employees will post alternative times or set up an appointment system with their students.
 - d. **Collaboration:** Teachers are scheduled 3 hours and 45 minutes of collaborative time with their PLC colleagues, where teams will determine the essential standards and outcomes of their students in distance learning. Special Schedules may impact this time (e.g. 4-day weeks).
 - e. **Advisory:** In keeping with state daily live interaction guidelines around synchronous instruction, members will be assigned a Wednesday Advisory period where attendance will be taken. During these Wednesday Advisory periods, unit members will:
 - i. Be assigned students that are connected to one of their regular class periods to the greatest extent possible.
 - ii. Deliver a district-created activity to promote student wellness or resource trainings.
 1. Topics may include, but are not limited to, anti-bias/anti-racism of our students, anti-harassment, appropriate interactions with students/staff, how to ask for help and sources of assistance, guidance developed lessons, college planning, mindfulness activities, goal-setting, team-building activities, read/discussing articles/stories/current events, response and discussion of an assembly, Schoology practice, school surveys, or mandated emergency procedures.
 2. District-created activities that involve all bargaining unit employees to be actively involved in the delivery of the lesson (e.g. anti-racism modules) shall be limited to every other week. These shall be designated “lesson delivery Advisories”. The advisories that are not specified as lesson delivery advisories shall still require synchronous engagement with students throughout the advisory period. The District and FEA shall consult and agree on the appropriate guidelines for the non-lesson-delivery advisories and publish those agreements prior to January 4th, 2021.

- iii. It is recognized that some of the topics surrounding social emotional learning, anti-bias/anti-racism and equity can be unfamiliar and challenging for staff to teach. Initial lessons will be foundational in nature as staff is trained. Instructional support shall be provided in order to boost the competency and comfort. Note: this is not intended to be an opt-out clause. We are aware that race issues, gender issues, sexuality issues are not necessarily comfortable issues for many of us to raise, that does not make it okay to refuse to engage in them in perpetuity.
 - iv. The parties agree to continually revisit Advisories as the semester progresses, in accordance with section 18 below.
 - f. **Wednesday Student Activity Period/Tutorial:** This period of time does not require synchronous time between bargaining unit employees and students. Rather, it is an opportunity for students to schedule extra-curricular activities, such as club meetings, and other student-driven endeavors that would otherwise be relegated to lunch or after-school. This time is not intended for synchronous high-value tests for entire classes. This student activity time is not intended to require students to have an additional assignment beyond what is due the next day. Additionally, it can serve as a time when teachers make appointments with students to assist them with their learning. IEP's, Department Lead meetings, SAT team meetings etc. may also be scheduled here. Bargaining unit employees who are not engaged with the students or other meetings will treat this time as ERAP.
5. **Communication:** Students will be afforded multiple opportunities per week of instruction to connect with bargaining unit employee platforms: via video conference platform, online chat platforms, school assigned email, Schoology, or other teacher-preferred distance platforms. If communication is needed by phone, it is recommended that bargaining unit employees utilize [*67] to block their personal phone numbers or utilize the Remind messaging or phone call system.
6. **Compensation and Benefits:** The following shall govern the compensation of bargaining unit employees during the emergency school closure:
- a. Bargaining unit employee's compensation and benefits shall not be reduced during remote learning. Stipends shall be paid for duties performed.
 - b. Bargaining unit employees who need to take a leave of absence during the term of the MOU will have access to leave rights set out in the parties' CBA as well as the terms of the Families First Coronavirus Response Act (FFCRA). *Should the FFCRA not be in effect during the time period governed by this MOU, all references to the FFCRA shall be deemed null and void.*
 - c. With the delay and/or cancellation of extracurricular activities, bargaining unit members will be paid/compensated according to the CBA only if they are implementing alternative conditioning, team activities, separate from remote class time activities, and during the time of the season. All programs must follow the guidelines of the Santa Clara County Public Health Department, and are on a voluntary basis.
 - d. Working remotely does not affect a bargaining unit employee's status as a District employee and employees who complete 75% of the school year are considered to have earned a year of service.
7. **Remote Learning:** The Parties recognize that the constraints of teaching remotely during this public health crisis require that distance learning allow for flexibility for teachers to plan and provide instruction, resources, and support as appropriate for students as much as possible. If bargaining unit employees wish to provide physical materials to students to support remote learning, the District shall make a good faith effort

to provide the means for delivery of materials to the student. *Department Leads, Team Leads and other volunteer bargaining unit members will support the efforts to distribute the physical materials.*

- a. Remote learning will be accomplished within the below remote learning schedule:

Monday/Thursday			
Period	Start	End	Minutes
1	8:00	9:30	90
2	9:45	11:15	90
Lunch	11:15	12:15	60
3	12:15	1:45	90
7	2:00	3:30	90

Tuesday/Friday			
Period	Start	End	Minutes
Collaboration	7:50	8:50	60
4	9:00	10:30	90
5	10:45	12:15	90
Lunch	12:15	1:15	60
Office Hours	1:15	2:00	45
6	2:00	3:30	90

Staff Wednesdays			
Period	Start	End	Minutes
Staff Meeting/ ERAP	8:00	8:45	45
Tutorial/ Homeroom	9:00	10:00	60
Collaboration	10:15	12:00	105
Lunch	12:00	1:00	60
Office Hours	1:00	1:45	45
Break	1:45	2:00	45
Student Activity Period/ Tutorial	2:00	3:30	90

- b. The bell schedules are being proposed for the entire 2020-21 school year, *with some possible adjustments:*
- i. If we return to any type of in person learning during this school year, lunches would need to be moved to later in the day to accommodate the cafeteria workers ability to prepare two meals a

day (brunch and lunch). Passing periods may need adjustment and brunch would likely need to be added. If we return to full in-person learning, the Asynchronous Wednesday will move to a 7 period “skinny” day.

- c. In the event that a holiday creates a 4-day workweek, the week’s schedule will be adjusted. See Appendix B below.
 - d. During Full Remote Learning only, in the event that a member needs a sub on a day-by-day basis, the district and FEA will use the established protocols implemented in the first semester of ’20-’21.
 - e. No bargaining unit employee will be required to be present on school campuses during a Full Remote Instructional Model, although members can voluntarily run their remote learning classrooms from their own campus classroom. Nothing in this MOU shall preclude teachers from opting-into come to their worksite for educationally approved reasons.
 - f. Safety protocols (Appendix A) will be in place in making sure work spaces are sanitized and kept safe. In order to facilitate these safety protocols, bargaining unit employees who choose to work from their classroom/office worksite shall follow procedures determined and articulated by the Safety Protocols.
 - g. Bargaining unit employees, who voluntarily choose to physically meet with one another (collaborate) on campus shall inform the administration of their intent to assure that proper safety protocols are implemented and communicated to these members.
 - h. All bargaining unit employees shall have access to the requisite computer equipment and Wi-Fi in their school building. While bargaining unit employees who choose to work from home shall receive a computer from the district, the employee shall bear the responsibility to have adequate Wi-Fi bandwidth for synchronous instruction.
 - i. During the remote learning period, teachers will be available during their scheduled 90-minute class periods, 60-minute Advisory, and 135-minute Office Hours to provide remote learning activities and/or assignments, through their chosen mode of communication. Teachers will have the ability to schedule alternative times for office hours to accommodate the needs of their students and/or their personal circumstance, but hours must be posted in the course Syllabus, on Schoology, and proposed to site administration.
 - j. Teachers will provide access to their course syllabus, gradebook, and assignments that determine the grade in Schoology.
8. **Accommodations and Modifications:** Teachers will follow California Department of Education (CDE) guidelines for providing accommodations to students with IEPs and 504s during the pandemic.
9. **Students with Special Needs:** The parties agree to meet regularly to address implementing guidance from the CDE, as well as the Federal Department of Education in order to provide equitable and appropriate education for our students with special needs. Special education teachers will work collaboratively with core-content teachers to accommodate, and/or adapt lessons to meet the needs of students’ IEPs in a digital learning environment and ensure that lessons and activities are appropriate as documented in the students’ IEPs.
- a. Special education teachers of students with moderate to severe disabilities will provide continuity of learning through a variety of remote learning resources as appropriate so that special education students have access to the same learning opportunities as other students.
 - b. Special education case managers shall communicate the remote learning plan for their students to parents.
 - c. Related Service Providers (Speech Therapists, Adapted PE, Nurses, Social Workers, etc.), will prepare distance learning activities or health-related supports that can be completed at home as

appropriate. As time allows and where appropriate, they may do advance planning for when schools are reopened (e.g., inventories, record updating, etc.).

- d. Should compensatory services be required upon the reopening of schools, and bargaining unit employees are required to provide those compensatory services, the bargaining unit employees will be compensated hourly for additional hours beyond their regular working hours, or at their per diem rate if beyond their regular working hours.

10. **IEPs:** Digital options to meet and collaborate on a student's Individualized Education Program (IEP) will be implemented during the closure due to COVID-19. No IEP meetings will be held in-person unless allowed under the guidance of the SCCPHD.
11. **Meetings:** Regular staff meetings protocol will be followed as stated in the contract, although administration reserves the right to call an emergency staff meeting to address any changes related to school procedures related to the COVID-19 protocol. A good faith effort should be made to use the Wednesday morning time. Staff will not be required to gather in person for a staff meeting.
12. **Evaluations:** Formal evaluations will be postponed for permanent members, until further notice as teachers adjust to remote learning environments. As current contract states, administrators reserve the right to observe online courses to offer constructive feedback, although these observations will not be part of a teacher's evaluation. Probationary one and two members will need to be part of the regular CBA evaluation protocol, unless state legislation allows for extension of probationary status. Should such extension be granted, the parties shall negotiate effects.
13. **Professional Development:** Members will be provided with training and/or support on Schoology, Zoom, or any learning platform recommended by the District. In the event special circumstances prevent an employee from attending an online training, the employee shall make special arrangements with their site principal or supervisor.
14. **Reopening of Schools:** Following the guidance from the SCCPHD, the District shall provide at least two calendar weeks notice to all bargaining unit employees to prepare for the return to the classroom with students. The District shall ensure that all school sites are adequately sanitized before bargaining unit employees return and will ensure all sinks (including those located in staff break rooms, all bathrooms, cafeterias/kitchens, classrooms, and janitorial closets) are functioning with running water and kept stocked with soap and paper towels. Recognizing the limited supply of certain items, the District will place hand sanitizer in every classroom, bathroom, workroom, workstation (for those bargaining unit employees who do not have a traditional classroom), office, cafeteria, and outdoor area. The District will make all good faith efforts to follow the guidelines issued by the State of California, Santa Clara County, Cal OSHA, and CDC, with respect to its response to the COVID-19 pandemic, including the implementation of a safe workplace by providing Personal Protective Equipment (PPE), regular screenings and testing, safety protocol for operations, enforcement protocol, and COVID-19 information for all employees and students.
15. **Activities:** The parties agree to suspend Article 5 section IX subsection A "Co-Curricular Duties" until such Co-Curricular opportunities for students resume. At that time, parties will engage in good-faith negotiations to ensure adequate supervision through a fair and transparent procedure.

16. Leaves (related to COVID-19)

1. In the event bargaining unit employees are exposed to COVID-19 or are diagnosed as having COVID-19, such bargaining unit employees will be able to utilize such leaves – in accordance with the eligibility requirements – as are set out in the collective bargaining agreement between the District and CSEA and/or under the Families First Coronavirus Response Act (FFCRA). Similarly, those employees with medical proof of susceptibility to COVID-19 or who may be caring for individuals with COVID-19 may be eligible for emergency paid leave through the Emergency Paid Sick Leave Law (EPSL) and should work with the Human Resources Department to determine their leave eligibility.
 2. If an employee is taking a leave under the FFCRA (whether it is for Emergency Paid Sick Leave or Emergency Family and Medical Leave), the employee may elect - by notifying the District - to stack/top off the amount of pay they receive under such laws by using their accrued paid sick time (but not Extended Sick Leave) to receive up to 100% of their normal regular pay.
 3. In the event a bargaining unit employee is unable to return to in-person work because they are at high risk for COVID-19 as defined by Santa Clara County Public Health Department, the State of California's Public Health Department, and CDC, the Human Resources Department will engage with the employee to discuss potential options, which may include, if applicable engaging in an interactive dialogue that explores various options to allow the bargaining unit employee to continue to work, including working remotely, and potential leave options, including under the FFCRA and/or FMLA/CFRA.
17. The parties agree to immediately reinstate negotiations over the provisions in this MOU if the State of California, Santa Clara County, Cal OSHA, and or CDC modifies any requirements for schools in response to COVID-19.
18. The Parties understand the coronavirus (COVID-19) pandemic situation is very fluid and mutually agree to review the provisions of the MOU as necessary.
19. The parties agree that this MOU does not create a precedent or past practice.
20. To the extent that the state of California or Santa Clara County Public Health Department requirements that are directly applicable to school districts conflict with any of the provisions of the MOU, the District will comply with those requirements and the above provisions will be rendered void as of the date the applicable order is issued.

Appendix A – Safety Protocols:

The following safety protocols shall be in place when staff/students are on campus. Both parties recognize that County Public Health or other supervising government entities may amend safety requirements. Should those requirements alter the below stipulations, the District shall have a duty to inform FEA of the changes in policy, and FEA shall have the right to negotiate the effects of the changes.

- Each site shall have a designated isolation room for use when a student shows COVID-19 symptoms. Each site shall have Designated Trained Personnel (DTP) who will be responsible for isolation room procedures and protocols. No Bargaining unit employee shall be appointed as the DTP unless they willingly volunteer for said duty.
- Each bargaining unit employee shall complete the 20-minute Keenan training on Integrated Pest Management before coming onto campus.
- Every person entering a school site facility shall complete a COVID-19 pre-screening procedure.
- A one-way student traffic flow shall be established for entry and exit of school facilities
- There shall be a check-in procedure at every site for each room that is being used. A QR code system or something similar shall facilitate this procedure.
- Rooms that are being used by staff and/or students shall be well-ventilated, and each school site shall have MERV-13 filters in use
- Full supply of appropriate Personal Protective Equipment (PPE) shall be available at each school site. PPE may include surgical masks, KN95 and N95 masks, face shields, gloves, gowns, and Plexiglas shields. These items will be made available for use by persons whose specialized assignments require an increased level of PPE beyond what a typical classroom bargaining unit employee needs.
- Hand sanitizer and disinfecting equipment shall be made available in each classroom.
- All classroom desks shall be placed at County Health directed distances apart from one another (currently, six feet apart).
- Size of cohorts shall not exceed the safety requirements imposed by the County Health Department.
- Students shall be required to wear masks at all times. Extra masks will be made available for students and staff upon request. Students who do not comply with safety protocols shall not be permitted to stay on campus.
- The District shall have the right to implement a mandatory COVID-19 testing protocol for bargaining unit employees who come onto campus. FEA shall be consulted on the implementation procedure. Costs for the test shall be billed to insurance.
- Additional sources of information, including District safety protocols can be found on the Distance Learning Information and Resources website: [click here](#).

Appendix B – 4-day week schedules. The below schedules are designed for planning purposes only, and are subject to change due to the dynamic nature of school opening/closure uncertainty that we are in.

Week of January 18 – 22: Monday is a holiday; Tuesday shall have 7 periods of 45-minute periods as indicated, below. Wednesday through Friday shall proceed according to the remote learning schedule.

Tuesday, January 19 2021			
PERIOD	START	END	MIN
1	8:00 AM	8:45 AM	45
2	8:55 AM	9:40 AM	45
3	9:50 AM	10:35 AM	45
Break	10:35 AM	11:05 AM	30
4	11:05 AM	11:50 AM	45
5	12:00 PM	12:45 PM	45
LUNCH	12:45 PM	1:45 PM	60
6	1:45 PM	2:30 PM	45
7	2:40 PM	3:25 PM	45

Week of January 25-29: Due to the National Merit Scholarship Qualifying Test (NMSQT), the schedule for Tuesday January 26 shall be modified to look more like a Wednesday remote schedule to allow juniors to come onto campus to take the test during a non-synchronous day. The placement of Office hours and Advisory for Tuesday January 26 shall involve consultation with FEA. Wednesday January 27 shall look like a regular remote-learning “Tuesday” schedule instead.

Bargaining Unit employees shall have the opportunity to request to proctor the NMSQT, and forego their Asynchronous preparation time. Bargaining unit employees who are selected from a pool of volunteers to proctor shall be compensated with a stipend of \$165. Both parties recognize that proctoring is not an exclusive duty that only bargaining unit members are eligible for, and the District shall retain the right to staff proctors in a manner they see fit (i.e. the district may employ CSEA members, Admin, or other qualified adults for this purpose). However, should the number of bargaining unit volunteers exceed the number of slots available, a mutually agreed upon process for volunteer selection shall be agreed upon between the FEA exclusive representative and the District.

Should the NMSQT be cancelled or moved, we will default to the regular remote-learning schedule.

Week of March 15-19: Monday March 15 is a non-duty day. A special schedule for that week shall be established that will include the state-mandated CAASP testing. This year, all school sites shall do CAASP testing on the same week, unlike previous years. FEA shall be consulted prior to schedule implementation. Should the State of CA decide that CAASP is not going to take place, the same schedule as stated in the January 18-22 week shall be implemented.

Week of May 31 to June 4: The District shall make a good faith effort to timely notify and consult with FEA on the Memorial week schedule, which coincides with finals week/graduation week.

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This MOU shall expire on the earlier of June 4, 2021, or at such time as the SCCPHD declares the public health emergency over but may be extended by mutual written agreement. The undersigned represent that they are authorized to execute this MOU

Jason Heskett, Fremont Education Association President

Polly Bove, FUHSD Superintendent