



YOUNG, MINNEY & CORR, LLP

# CLIENT ADVISORY

## **Important Update to CDE FAQ: Classroom-based Charter Schools Who Also Offer an Independent Study Program Must Follow Distance Learning Requirements of SB 98 Even for Independent Student Students**

On Friday, July 31, 2020, the California Department of Education (“CDE”) updated its frequently asked questions (FAQ) on Distance Learning. Please see <https://www.cde.ca.gov/ci/cr/dl/distlearningfaqs.asp>. In the FAQ, the CDE addresses independent study programs that will operate in the 2020-21 school year. The CDE’s FAQ in #16 states that an **LEA** that offers an independent study program will need to ensure that the statutory distance learning requirements listed in SB 98 are met to avoid audit penalties in addition to continuing to meet the independent study requirements established in Article 5.5 of the Education Code. The CDE noted the following as minimum requirements for distance learning:

- Adopt a learning continuity plan and attendance plan that includes plans for the distance learning program;
- Track and report daily participation;
- Maintain a weekly engagement record for each student documenting synchronous or asynchronous instruction for each whole or partial day of distance learning, verifying daily participation, and tracking assignments;
- Schedule students for a minimum days’ worth of assignments each day as certified to by a certificated employee;
- Develop written procedures for tiered reengagement strategies for all pupils who are absent for more than three schooldays or 60 percent of the instructional days in a school week; and
- Provide either daily live interaction or develop an alternative plan for frequent live interaction.

**It is notable in the CDE FAQ (see questions #3 and #23) that the CDE has reiterated the exclusion of those schools who were nonclassroom-based charter schools as of the 2019-20 school year from the definition of LEA and from the requirements of distance learning under SB 98.** However, there are many classroom-based charter schools (and school districts) that offer significant independent study programs that do not bring them under the definition of a “nonclassroom based charter school.” As a result, per the CDE FAQ, classroom-based charter schools that offer an independent study program (for one or more students) should be reviewing the procedures of their independent study programs to ensure that they are able to fulfill both the strict requirements of independent study law under the Education Code **AND** the requirements of distance learning pursuant to SB 98 – a failure to do so could lead to audit penalties and loss of apportionment for the independent study students.

YM&C is happy to assist classroom-based charter schools with considering the requirements of distance learning both as applied to their independent study programs and their classroom-based programs. For assistance, please contact Lisa Corr at [lcorr@mycharterlaw.com](mailto:lcorr@mycharterlaw.com).