

By U.S. Mail and Email (to jharris@dnusd.org)

January 12, 2021

Jeff Harris, Superintendent
Del Norte Unified School District
301 W. Washington Blvd.
Crescent City, CA 95531

Re: Del Norte Unified School District's unlawful reopening plan

Dear Superintendent Harris:

I represent the Del Norte Teachers Association. It has come to my attention that the Del Norte Unified School District is planning to reopen Del Norte High School for general education on January 25, 2021, even though Del Norte County is currently in Tier 1 and the reopening is therefore prohibited by state law. I write to demand that the District immediately cease and desist from embarking on this unlawful reopening.

As you know, Del Norte High School has never reopened for general instruction. Rather, during the pandemic it has offered only targeted in-person services for high-risk students under the state's small-cohort guidance. The California Department of Public Health's July 17, 2020 "Reopening In-Person Learning Framework for K-12 Schools" provides that "if a school or district had not already reopened for in-person instruction while in Tier 2 and is then moved to Tier 1, it may not reopen those schools until the county moves back to Tier 2 and remains in Tier 2 for 14 days."¹

It is not clear from publicly available information on what legal authority the District relies to justify its reopening. The District may be claiming that its reopening of elementary and middle schools entitles it to proceed with reopening Del Norte High School. But this position is inconsistent with the guidance quoted above, which applies the reopening criteria on a school-by-school basis. The District may also claim that the reopening is permitted because it has already been providing in-person instruction at Del Norte High School. But the CDPH has repeatedly advised that schools that have been operating only in the manner permitted under the Cohorting Guidance are not "open" under the July 17 reopening framework. These limited existing services therefore cannot serve as a legal basis for resuming general in-person instruction while the County is in Tier 1. Moreover, it should be obvious that reopening a large

¹ <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID19CountyMonitoringOverview.aspx>

school where young adults will be congregating for the first time just as Del Norte County is suffering from its highest-ever case numbers is the antithesis of a sound public-health decision.

On top of the general unlawfulness of the District's planned reopening, the District's proposed method of reopening also appears to violate the Educational Employment Relations Act, which requires the District to provide the Association with notice and an opportunity to bargain before implementing any decision that will affect the terms and conditions of unit members' employment. Reopening a high school for in-person instruction during a raging pandemic qualifies as a decision with negotiable effects on the health, safety, work rules, and work flow of the District's certificated employees.

The Association expects and trusts that the District will reconsider its plan to reopen Del Norte High School and reach the conclusion that the plan in its current form is unlawful. Again, under the legal framework established by the state, the District may not reopen Del Norte High School until Del Norte County has been in Tier 2 for at least two weeks.

Please confirm to me in writing no later than January 15, 2021 that the District will comply with the Association's demand that it cease and desist from pursuing the reopening as planned. If I do not hear from you, I will assume that the District intends to proceed with reopening Del Norte High School on January 25, 2021 and I will advise the Association about potential avenues for legal recourse.

Sincerely,

 /s/ Brian Schmidt
Brian Schmidt
Staff Attorney