March 27, 2020

CAPSES Regions and Membership,

We hope everyone is doing well during this crisis. At the state level we have seen many successes in ensuring that districts and our programs are not only considered, but funded in order to keep stability within the system of care. We are thankful for the actions taken by the Governor, the Legislature, and for current guidance provided by CDE and State Special Education Director Kristin Wright. CAPSES has sent a position paper to state leadership, SELPA’s and districts throughout the state. We have seen much support of our position from state leadership and from many SELPA’s throughout the state.

It is important to note that each school district is a legally separate entity, governed by its school board, and each has the ability to make decisions on their interpretation of legislative intent and CDE guidance. We understand this has raised serious concerns, and it is our hope that regions will experience a high level of consistency coming from their districts. In absence of that, we wanted to provide some talking points, tips, and materials to help each region coordinate any discussions or negotiations that may happen.

**General Tips:**

* Leverage the relationships you have and try to build consensus where possible. SELPAs cannot direct a district in their decisions, but their guidance does have impact and can foster consensus with many of your districts
* Keep in communication with your regional representatives from CAPSES, and your regional partners. Share information and information. This is helpful in building your distance learning plans, and it is helpful in creating a uniformed approach to districts that may be outliers in their beliefs around NPSA payments.
* Check you master contracts. Many MC have clauses associated to closure periods, and that can be extremely helpful in ensuring payment, given districts will continue receiving payments.

**Talking Points:**

* There were three core state level responses to ensuring “stability” within education
  + Governor’s Emergency Declaration, calling for continued funding of LEA’s to ensure on-going support.
  + SB 117, which clearly states that districts should “hold harmless” both employees and contractors.
  + Director Wright and CDE have stated that NPSA should be paid. They cannot mandate this, but have provided guidance that is clear in their interpretation of the Governor’s message and SB 117, that it is inclusive of NPSA, and that NPSA should continue being paid. Further, the State Director has called for everyone to focus on “what can be done”, and called everyone into action. The written guidance and her address were clear in calling districts, NPSA and individuals to action. CDE guidance and the Director have stressed, the overall importance of the California special education system to rise to this critical challenge and to maintain stability.
* Past Precedent
  + Past California precedent has shown that when districts receiving ADA funding in school closures (e.g. earthquakes, fires, etc.), it is passed on to NPSA.
* Long Term implications
  + This is a period of crisis. Depending on the length of this crisis, it has significant long term implications. Much like NPSA, districts are facing some challenging questions and trying to navigate these questions the best they can.
  + Special Education is a system already in crisis. Although a district may perceive a short term value of not funding or under funding a Special Education vendor; the long term implications could result in instability within the market, loss of skilled personnel, less resources to meet mandates, and increased litigation. It benefits LEA’s to keep whole a delicate and vulnerable system such as special education for long term risk mitigation.

Our hope is that these talking points are helpful in guiding regional discussions. CAPSES remains committed to staying in touch with state leadership as we continue to navigate through these challenging times. I have attached examples of some ‘acknowledgement’ forms, which can be utilized to notify districts of your distance learning plans, and to engage in discussions around cash flow and billing payment.

As always, we appreciate the work you are doing. CAPSES is proud that our schools and agencies are doing exceptional things. Many CAPSES members ~~who~~ launched distance learning within days, are running full day virtual sessions, and ~~who~~ are doing amazing things to ensure our families have their basic needs met.

Thank you for your incredible work. Your work elevates the CAPSES voice in Sacramento.

Sincerely,

Ryan C. Eisenberg, Ed.D.

CAPSES Board President