

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
HR 101 (Jones-Sawyer) – As Introduced March 30, 2022

SUBJECT: Pupil Instruction

SUMMARY: Encourages the governing board of each school district to adopt local equitable grading policies and best practices before a failing grade is assigned to a pupil, as specified. Specifically, **this bill:**

- 1) Makes the following findings and declarations:
 - a) Nationwide, school districts are revisiting grading practices and social and emotional supports to respond to the shifting learning context due to the challenges and opportunities brought on by the COVID-19 pandemic, and the ways in which traditional grading contributes to inequitable outcomes for historically marginalized pupils;
 - b) Research by Joe Feldman indicates that equitable grading has three pillars: accuracy, bias-resistance, and intrinsic motivation;
 - c) Grades accurately reflect only a pupil's academic level of performance, exclude nonacademic criteria such as pupil behavior, and use mathematically sound calculations and scales;
 - d) Equitable grading reflects a pupil's mastery of knowledge and skills based on measurable and observable course objectives that promote learning;
 - e) Research, including, but not limited to, that cited in Joe Feldman's "Grading for Equity" published in 2018, indicates that traditional, behavior-oriented grading systems stifle growth mindsets, hide meaningful information, provide misleading information, invite conscious and unconscious biases, and demotivate and disempower both pupils and educators;
 - f) Mastery-based learning and grading is a growth mindset approach to teaching and learning based on the expectation that everyone can learn when provided with the right conditions and support;
 - g) A wealth of academic literature and research supports the importance and effectiveness of implementing a mastery-based learning and grading approach to teaching as a more accurate reflection of pupil learning and growth;
 - h) Becoming proficient in mastery-based learning and grading is a learning process for educators, families, and pupils, and implementation must reflect and respect the learning of individuals and school communities;

- i) Several school districts in California have started to transition to implementing equitable grading policies, including the Los Angeles Unified School District (LAUSD), the San Diego Unified School District, and the San Leandro Unified School District; and
 - j) School districts, like the LAUSD, have had over 5,000 teachers undergo professional development on growth-mindset instruction and grading to increase equity for all learners and continue to make strides towards providing professional development to more teachers and staff.
- 2) Encourages each school district to commit to achieving equity in college and career readiness for all pupils, especially those who are Black, Latinx, and Filipinx, emergent bilingual speakers, pupils with disabilities, foster youth, and experiencing homelessness, and to appreciate that a supportive approach to mastery-based learning and grading may be one important step towards doing so.
- 3) Encourages the governing board of each school district to adopt local equitable grading policies and best practices before a failing grade is assigned to a pupil.
- 4) Encourages a school district's local equitable grading policies and best practices to include all of the following:
- a) Providing appropriate academic and social-emotional interventions, opportunities for a pupil to turn in missed assignments or makeup work, and referrals for meetings with the academic counselor or pupil support personnel to provide additional support for the pupil, as needed, before the pupil is assigned a failing grade;
 - b) Annually reviewing semester grading data by pupil demographic categories and considering how the school district is addressing the achievement and opportunity gaps;
 - c) Posting its local equitable grading policies and best practices on its internet website;
 - d) Promoting public participation and feedback in the adoption of its local equitable grading policies and best practices; and
 - e) Consider developing professional development opportunities for its personnel to build their capacity and awareness on how to effectively implement equitable grading.
- 5) Resolves that the Legislature in the future may consider revisiting existing laws as it pertains to the state's grading policies.
- 6) Resolves that the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

EXISTING LAW:

- 1) Requires that when grades are given for any course of instruction taught in a school district, the grade given to each pupil be the grade determined by the teacher of the course and the determination of the pupil's grade by the teacher, in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency, shall be final.

- 2) Prohibits the governing board of the school district and the superintendent of such district from ordering a pupil's grade to be changed unless the teacher who determined such grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which such grade was given and is, to the extent practicable, included in all discussions relating to the changing of such grade. (Education Code (EC) 49066)
- 3) Requires the governing board of each school district to prescribe regulations requiring the evaluation of each pupil's achievement for each marking period and requiring a conference with, or a written report to, the parent of each pupil whenever it becomes evident to the teacher that the pupil is in danger of failing a course. States that the refusal of the parent to attend the conference, or to respond to the written report, may not preclude failing the pupil at the end of the grading period.
- 4) Authorizes the governing board of any school district to adopt regulations authorizing a teacher to assign a failing grade to any pupil whose absences from the teacher's class that are not excused equal or exceed a maximum number specified by the board. (EC 49067)
- 5) For pupils enrolled in high school in the 2020–21 academic year, authorizes the parent, guardian, or education rights holder of a pupil or, for a pupil 18 years of age or older, the pupil, to apply to the pupil's LEA to have a letter grade earned for that course, as reflected on the pupil's transcript, changed to a Pass or No Pass grade. Requires an LEA to grant such a request, subject to all of the following:
 - a) The LEA shall not limit the number or type of courses eligible for the grade change;
 - b) The grade change shall not negatively affect the pupil's grade point average; and
 - c) Notwithstanding any other law, the grade change shall not result in the forfeiture of the pupil's eligibility or entitlement to state or institutional student financial aid.
- 6) Requires the California State University (CSU), and encourages private postsecondary educational institutions and the University of California (UC), to do both of the following:
 - a) Accept for admission purposes, and without prejudice, a transcript with a Pass or No Pass grade instead of a letter grade for any coursework for an applicant who had enrolled in a high school in the state during any school year from the 2020–21 school year to the 2023–24 school year, inclusive; and
 - b) Within 15 calendar days of the operative date of the act establishing this requirement, notify the California Department of Education (CDE) if the institution will comply.
- 7) Requires the CDE to post on its internet website, and provide to LEAs, both of the following:
 - a) Within 15 calendar days of the operative date of the act establishing this requirement, an application template for use by LEAs for the grade change described above; and
 - b) Within 20 calendar days of the operative date of the act establishing this requirement, a list of postsecondary educational institutions operating in the state that have indicated that they will comply with the provision above.

- 8) Requires LEAs serving high school pupils, within 15 calendar days of the CDE posting the application template, to post a notice on its internet website and provide written notice to its pupils and their parents or guardians of the grade change option described above.
- 9) Requires the notice to include all of the following:
 - a) The application to request a grade change;
 - b) The list of postsecondary educational institutions complying with the provisions; and
 - c) A statement that some postsecondary educational institutions, including those in other states, may not accept a Pass or No Pass grade instead of a letter grade for admission purposes.
- 10) Requires a pupil to submit an application to their LEA within 15 calendar days of the LEA posting a notice on its internet website and providing written notice to its pupils and their parents or guardians. An LEA shall not accept applications after that date.
- 11) Requires an LEA to change a transcript and notify the pupil and the pupil's parent or guardian of the change within 15 calendar days of receiving the pupil's application.
- 12) Specifies that absent a request to change a transcript pursuant to this section, a letter grade earned in the 2020–21 school year shall remain on the pupil's transcript.

FISCAL EFFECT: This resolution has been keyed non-fiscal by the Office of Legislative Counsel.

COMMENTS:

Need for the resolution. The author states, “HR 101 urges school districts in California to adopt more equitable, mastery-based grading practices and expanded support systems in response to COVID-19 and the growing evidence against the fairness of traditional grading practices. These mastery-based practices will be instrumental in ensuring that our education system is equitable for students from all backgrounds, ensuring that instruction is tailored to fit their needs, and providing as much support as possible for them to succeed. Students should be graded on their understanding of the course material, not the time it takes them to finish their work or their behavior.”

According to the LAUSD, sponsor of this resolution, this measure is intended to lend support to the work in which LAUSD and other districts are engaged to revise student grading policies. LAUSD notes that this resolution is consistent with consultation the district had with United Teachers Los Angeles (UTLA) last year.

COVID-19 pandemic causes increase in failing grades, new local policies. The school closures resulting from the COVID-19 pandemic in the 2019-20 and 2020-21 academic years caused widespread impacts on student learning, including an increase in failing grades, and increased interest in revisiting local grading policies to ensure fairness and equity.

A number of school districts reported an increase of D and F grades in the fall semester of 2020:

- In March, 2021 the San Diego Unified School District reported that the percentage of students who received D and F grades in the fall, 2020 semester rose from 13% to 23% for middle school students and from 15% to 21% for high school students. The district also noted that the number of high school students receiving those grades did not change in proportion, suggesting that students who were struggling were having difficulty in more than one course.
- The LAUSD reported an increase in the number of students receiving D and F grades in the 2020-21 academic year. On average, LAUSD saw a year-over-year increase of 8.7% increase in grades 9-12 and an increase of 12.4% in middle school, in the percentage of Ds and Fs earned. In grades 9-12, the percentage increase in F grades were high among Latino (11%), African American (8%), English learners (15%), as well as for foster youth, students with disabilities, and students experiencing homelessness had double digit increases. Students experiencing homelessness had the highest percent of “Fail” marks at 39.9%.

In 2020, the CDE issued grading guidance stating that “there is nothing in the California Education Code which governs whether a class can be offered as credit/no credit, pass/fail or a modified A–D.” At the same time, the UC, CSU, the California Community Colleges, and the Association of Independent Colleges and Universities pledged to accept credit/no credit grades in lieu of letter grades for all courses, including A–G courses, completed in winter/spring/summer 2020, and that grades of credit/no credit would not affect the UC or CSU calculations of GPA. Many districts opted to give students pass/no pass credit for the spring, 2020 semester.

Also in response to the increase in failing grades, AB 104 (Gonzalez), Chapter 41, Statutes of 2021, authorized parents, for the 2020-21 school year, to apply to have letter grades changed to a Pass or No Pass grade. The measure also required the CSU, and encouraged private postsecondary educational institutions and the UC, to accept these marks for admissions purposes without prejudice.

Equitable grading policies. This resolution cites research indicating “that traditional, behavior-oriented grading systems stifle growth mindsets, hide meaningful information, provide misleading information, invite conscious and unconscious biases, and demotivate and disempower both pupils and educators.”

A Policy Analysis for California Education (PACE) practice brief, *What Grading and Assessment Practices Could Schools Use in the Year Ahead?* (September 2020) noted that “the current disruption in education presents a unique opportunity to move closer to grading practices that provide better information about student achievement.”

PACE noted that research has established that:

- “For over 100 years, teacher-assigned grades have been found to reflect a mixture of academic and nonacademic factors. Teachers often give grades for classwork and homework, for example, and then count them in the student’s report card grade. Thus, two students who ultimately reach the same level of accomplishment might receive different grades, depending on how much practice each one needed to get there. Sometimes, teachers use point systems for grading that include points for assignment completion, studying, and extra credit, often not realizing that such points inject a measure of behavior, as opposed to achievement, in a

grade. Teachers weight achievement, behavior, and effort differently for low-achieving students than they do for high-achieving students. Thus, the amount of information a grade communicates about student learning varies from student to student.

- Another line of research focuses on what is graded in the first place. In current practice, examinations, tests, and quizzes carry a lot of weight in determining a grade, increasing in importance from elementary through middle and high school. However, to be meaningful indicators of learning, the information grades convey should come from assessments that are well aligned with the learning standards. For many 21st-century standards that implies the use of more performance assessment. A performance assessment requires students to create a product or demonstrate a process, or both, and it is evaluated by observation based on clearly defined criteria.
- Research on feedback and formative assessment also speaks to grading practices. Students are more able to regulate their learning if they have a clear idea of what they are supposed to be learning and receive ungraded feedback along the way, with opportunities to apply that feedback. Ungraded feedback—which can be in the form of scores or comments but does not punish students for their attempts at learning—is the kind of feedback most students prefer and are most willing to use for improvement. In this case, the grade from final, summative work can reflect what students learned, not how hard they practiced.”

PACE recommended that schools:

- 1) Assign grades that report students’ current achievement of clear learning goals;
- 2) Use flexible timing for collecting evidence of learning;
- 3) Consider grades as temporary, subject to revision as more recent evidence becomes available;
- 4) Use multiple measures for each learning goal;
- 5) Increase the use of performance assessment;
- 6) Choose performance tasks that require extended thinking, planning, and application of knowledge or demonstration of skills; and
- 7) Use criteria and rubrics that indicate achievement of learning goals, not compliance with directions or surface-level features of students’ work.

LAUSD grading policies. In November, 2021, the LAUSD issued guidance, developed in consultation with UTLA, for grading in the secondary grades for 2021-22. This guidance, among other changes:

- States that final academic marks are to be based on level of learning demonstrated in the quality of work (not the quantity of work) completed and the mastery of standards. The guidance also prohibits attendance, missed deadlines, engagement, and behavior from being included as a basis of final grades.

- Prohibits the assigning of failing grades unless students have been offered additional opportunities to turn in assignments, make-up work, or academic support, and requires that these opportunities be documented.
- Directs teachers to adopt equitable grading practices from among those identified by the CDE (which is similar to those identified by PACE above), or from a list that includes proactively engaging with students who need additional support at specified intervals; working in teams with colleagues; designating time for teachers to reach out to students and families, developing a coordinated family outreach system, and instituting schoolwide family outreach efforts.
- Makes changes to grading windows to allow for earlier intervention for students at risk of receiving failing grades.
- States that, after final marks are issued, all students who are earning a D or F as final grades should be given one of two specified options to increase their grades.
- School site administrators must create a list of all students who received Ds, Incompletes or Fails/No Pass marks and, among other steps, inform teachers that they may request preparation time to support students to improve proficiency and marks.

Growth mindset. This resolution cites research indicating that traditional, behavior-oriented grading systems stifle growth mindsets.

The term “growth mindset” derives from influential research by Dr. Carol Dweck of Stanford University, showing that peoples’ underlying beliefs about learning and intelligence have a significant impact on their behavior and resulting success. This research found that those who believe their abilities are malleable (a growth mindset) are more likely to embrace challenges, persist despite failure, and achieve at higher levels. Those who believe that intelligence is static (a fixed mindset) are more likely to avoid challenges and give up easily, and are less likely to fulfill their potential.

This resolution addresses grading, which is one form of feedback teachers give students about their work. Research has found that the kind of feedback teachers provide students (praise for intelligence vs. praise for effort) has a significant impact on student motivation and achievement. Praise for intelligence, which reflects a fixed mindset, leads to less persistence, less enjoyment, and worse performance than praise for effort, which reflects a growth mindset.

Arguments in support. The LAUSD writes, “Joe Feldman’s “Grading for Equity” in 2018, indicates that traditional, behavior-oriented grading systems stifle growth mindsets, hide meaningful information, provide misleading information, invite conscious and unconscious biases, and demotivate and disempower both pupils and educators. For this reason, HR 101 is needed as it promotes the work that Los Angeles Unified and other districts have already adopted and are leading to rethink student grading policies that are equitable and give students an opportunity to master the content.

Los Angeles Unified stands committed to providing appropriate academic and social-emotional interventions, opportunities for a pupil to turn in missed assignments or makeup work, and referrals for meetings with the academic counselor or pupil support personnel to provide

additional support for the pupil, as needed, before the pupil is assigned a failing grade. Los Angeles Unified has exercised the practice equitable grading in consultation and collaboration with UTLA, and so far, has had over 5,000 teachers undergo professional development on growth-mindset instruction and grading. Los Angeles Unified is dedicated to increase equity for all learners and continue to make strides towards providing professional development to more teachers and staff.”

Recommended Committee amendments. *Staff recommends that the bill be amended* to remove references to the publication in which relevant research is cited and the author of cited research, and make technical corrections.

Related legislation. AB 104 (Gonzalez), Chapter 41, Statutes of 2021, required, as an urgency measure, LEAs to adopt policies allowing parents to request that students be retained in the 2021-22 academic year; creates a process for parents to request that students receive a “pass” or “no pass” instead of a letter grade in the 2020-21 academic year and requires that specified institutions of higher education accept a “pass” for credit for admissions purposes; and requires that students who were in their third or fourth year of high school in the 2020-21 and who are not on track to graduate in the 2020–21 or 2021–22 school years be exempted from local graduation requirements and be given the opportunity to complete the coursework required for graduation.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Tanya Lieberman / ED. / (916) 319-2087