
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

| | | | |
|--------------------|-----------------|----------------------|---------------|
| Bill No: | AB 101 | Hearing Date: | July 14, 2021 |
| Author: | Medina | | |
| Version: | July 5, 2021 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Brandon Darnell | | |

Subject: Pupil instruction: high school graduation requirements: ethnic studies.

SUMMARY

This bill: (1) requires local educational agencies (LEAs) serving grades 9-12, commencing with the 2024-25 school year, to offer at least a one-semester course in ethnic studies; (2) adds, commencing with the 2029-30 school year, a semester-long course in ethnic studies to the list of statewide graduation requirements; and (3) expressly applies all statewide graduation requirements to charter schools.

BACKGROUND

Existing law:

- 1) Establishes statewide high school graduation requirements, which include, among other requirements, three courses in English and three courses in social studies, and authorizes school districts to establish additional requirements for graduation. (Education Code § 51225.3)
- 2) Requires the Instructional Quality Commission (IQC) to develop, and the State Board of Education (SBE) to adopt, modify, or revise, a model curriculum in ethnic studies. (EC § 51226.7)
- 3) Requires the IQC to submit the model curriculum by December 31, 2020 to the SBE for adoption, and the SBE to adopt the model curriculum by March 31, 2021. (EC § 51226.7)
- 4) Requires the model curriculum to be developed with participation from faculty of ethnic studies programs at universities and colleges with ethnic studies programs and a group of representatives of LEAs. (EC § 51226.7)
- 5) Requires that the model curriculum be written as a guide to allow school districts to adapt their courses to reflect the student demographics in their communities, and include examples of courses offered by LEAs that have been approved as meeting A-G admissions requirements including, to the extent possible, course outlines for those courses. (EC § 51226.7)
- 6) Encourages each school district or charter school maintaining any of grades 9 to 12, inclusive, that does not otherwise offer a standards-based ethnic studies curriculum, beginning in the school year following the adoption of the model

- curriculum, to offer to all otherwise qualified pupils a course of study in ethnic studies based on the model curriculum. (EC § 51226.7)
- 7) Requires a school district or charter school that elects to offer a course of study in ethnic studies pursuant to the model curriculum to offer the course as an elective in the social sciences or English language arts and to make the course available in at least one year during a pupil's enrollment in grades 9 to 12, inclusive. (EC § 51226.7)
 - 8) States the intent of the Legislature that LEAs submit course outlines for ethnic studies for approval as "A-G" courses which meet the admissions requirements of the University of California (UC) and the California State University (CSU). (EC § 51226.7)
 - 9) Prohibits the governing board of a school districts from adopting any instructional materials for use in the schools that, in its determination, contain:
 - a) Any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, occupation, or because of a protected characteristic listed in the Education Code.
 - b) Any sectarian or denominational doctrine or propaganda contrary to law. (EC § 60044)
 - 10) Provides that no person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (EC § 220)
 - 11) Requires the CSU, commencing with the 2021-22 academic year, to (1) provide courses in ethnic studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies. (EC § 89032)

ANALYSIS

This bill: (1) requires LEAs serving grades 9-12, commencing with the 2024-25 school year, to offer at least a one-semester course in ethnic studies; (2) adds, commencing with the 2029-30 school year, a semester-long course in ethnic studies to the list of statewide graduation requirements; and (3) expressly applies all statewide graduation requirements to charter schools. Specifically, this bill:

- 1) Adds, commencing with the 2029–30 school year, a one-semester course in ethnic studies, based on the model curriculum, to the list of statewide graduation requirements.

- 2) Authorizes a pupil, subject to the course offerings of an LEA, to fulfill the requirement above through the completion of either of the following types of courses:
 - a) A course based on the ethnic studies model curriculum adopted by the SBE.
 - b) An existing ethnic studies course.
 - c) An ethnic studies course taught as a part of a course that has been approved as meeting the A-G requirements of the UC/CSU.
 - d) A locally developed ethnic studies course approved by the governing board of the school district or the governing body of the charter school.
- 3) Prohibits a course that does not use ethnic studies content as the primary content through which the subject is taught from being used to satisfy the ethnic studies graduation requirement.
- 4) Provides that a pupil completing an ethnic studies course taught as a course in another subject shall also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for a diploma of graduation from high school.
- 5) Requires instruction and materials for such an ethnic studies course to meet all of the following requirements:
 - a) Be appropriate for use with pupils of all races, religions, genders, sexual orientations, and diverse ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - b) Not reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected the Education Code.
 - c) Not teach or promote religious doctrine.
 - d) Expressly authorizes LEAs to require a full-year course in ethnic studies at its discretion.
- 6) Deletes language encouraging LEAs to offer an ethnic studies course after the adoption of the ethnic studies model curriculum and instead requires LEAs, commencing with the 2025-26 school year, to offer at least a one-semester course in ethnic studies.

STAFF COMMENTS

- 1) ***Need for the bill?*** According to the author's office, "The goal of AB 101 is to allow all students to gain knowledge of one's history and community while also helping students feel more connected and empowered by the curriculum. Studies have proven that attendance, GPA of at-risk high school students have improved when culturally relevant pedagogy is added to the curriculum."
- 2) ***Previous successive vetoes by two different Governors.*** This bill is the third attempt to require a high school ethnic studies graduation requirement. The two previous bills: AB 2772 (Medina, 2018-19 Session) and AB 331 (Medina, 2019-2020 Session) were each vetoed. Most recently, Governor Newsom's veto message for AB 331, which was substantially similar to this bill, stated:

"This bill would require a course that incorporates ethnic studies as its primary content as a high school graduation requirement starting in the 2029-30 school year.

I value the role ethnic studies plays in helping students think critically about our history and understand the experience of marginalized communities in our state. This academic discipline will help prepare our young adults to become civically engaged and participate fully in our democracy. For these reasons, I already signed AB 1460, which will mandate ethnic studies as a graduation requirement for the California State University system.

I appreciate the amendments the author accepted to ensure that any ethnic studies coursework is free of bias and discrimination. I am also pleased that many more schools and districts have recently joined the hundreds of schools across our state that have adopted ethnic studies courses, and we intend to support these schools with professional development resources.

This bill, however, would require ethnic studies to be taught in high school at a time when there is much uncertainty about the appropriate K-12 model curriculum for ethnic studies. I have been closely monitoring the progress of the development of the K-12 ethnic studies model curriculum. Last year, I expressed concern that the initial draft of the model curriculum was insufficiently balanced and inclusive and needed to be substantially amended. In my opinion, the latest draft, which is currently out for review, still needs revision.

I am directing staff in my Administration to work with State Board of Education President Linda Darling-Hammond and State Superintendent of Public Instruction Tony Thurmond to ensure that the draft ethnic studies model curriculum achieves balance, fairness, and is inclusive of all communities.

In California, we don't tolerate our diversity. We celebrate it. That should be reflected in our high school curriculum. I look forward to our model curriculum achieving these goals."

- 3) ***Ethnic studies model curriculum recently adopted.*** As noted above and as referenced by Governor Newsom's veto of AB 331, existing law requires the development of an ethnic studies model curriculum and it was finally adopted by the SBE on March 18, 2021.

The development process elicited controversy, as there were concerns over which groups the ethnic studies model curriculum would ultimately include, and on some of the specifics within the initial draft. After public comment periods and a revision, the California Department of Education (CDE) ultimately recommended that the model curriculum increase the breadth and depth of the four foundational disciplines of ethnic studies—African American Studies, Asian American Studies, Chicana/o/x Latina/o/x Studies, and Native American Studies. Additionally, the CDE proposed updating and expanding an existing set of resources—where all sample lessons are housed—to further reflect California's diversity by offering instructional materials that raise the voices of many identities whose experiences intersect with the core disciplines of ethnic studies, such as Arab Americans, Armenian Americans, Jewish Americans, and Sikh Americans.

- 4) ***Research on academic value of ethnic studies.*** As noted in the Assembly Education Committee analysis, a review by the National Education Association found that "there is considerable research evidence that well-designed and well-taught ethnic studies curricula have positive academic and social outcomes for students." Another recent analysis found "a consistent, significant, positive relationship between [Mexican American Studies] participation and student academic performance." A 2016 study from Stanford University (published as a working paper) on the effects of an ethnic studies curriculum piloted in several San Francisco Unified School District (SFUSD) high schools found that assignment to a year-long 9th grade ethnic studies course was associated with an increase of ninth-grade student attendance by 21 percentage points, grade point average (GPA) by 1.4 grade points, and credits earned by 23. The authors conclude that "these surprisingly large effects are consistent with the hypothesis that the course reduced dropout rates and suggest that culturally relevant teaching, when implemented in a supportive, high-fidelity context, can provide effective support to at-risk students." They also note, "the implementation of ethnic studies in SFUSD was, arguably, conducted with a high degree of fidelity, forethought, and planning. In particular, it appeared to draw upon the work of a core group of dedicated teachers, engaging in a regular professional learning community, with outside support from experts in the subject to create and sustain the program. As scholars from a number of disciplines have noted, the effects of such smaller-scale interventions are often very different when the same policies are implemented at scale."

- 5) ***Guardrails or detour?*** This bill requires ethnic studies instruction and the associated instructional materials to not reflect or promote, directly or *indirectly*, any bias, bigotry, or discrimination against any person or group of persons on the

basis of any category protected by the Education Code, such as disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, among others. These provisions go further than similar anti-discrimination guardrails in existing law for all other programs, activities, and instructional materials.

At present, at least five states: Idaho, Iowa, Oklahoma, Tennessee, and Texas have enacted legislation to restricting instruction related to race. Many other states have seen similar legislation introduced.

While the intent of the guardrail provisions in this bill are not likely the same as the motivations in those states, their ultimate effect may be similar. In this state, at the high school level, there are no state adopted instructional materials – and at every level, an LEA is free to adopt any instructional materials that it so chooses, so long as those materials comply with certain requirements.

As it relates to ethnic studies only, those requirements would now include a requirement that instructional materials not reflect any indirect bias against any group of people. More pressingly, the requirements would also apply to the instruction itself. “Indirect” is a standard as vague as it is broad. It is not difficult to see how these provisions could provide an opportunity for some to force a chilling effect on any version of ethnic studies instruction that attempts to dive below the surface. *The committee may wish to consider* the value of establishing a separate, higher standard for ethnic studies instruction and instructional materials.

- 6) ***Funding for resources in the budget.*** As noted above, the state does not adopt instruction materials at the high school level; each school district, county office of education, and charter school adopts their own, so long as those materials comply with specified requirements, including existing anti-discrimination provisions. An example of current instruction materials used in ethnic studies courses is Ronald Takaki’s, *A Different Mirror for Young People: A History of Multicultural America*, which is used by some LEAs, including Los Angeles Unified School District, Paso Robles Unified School District, and Visalia Unified School District. SB 130 (Skinner, 2021), which is pending before the Governor, includes \$5,000,000 for the CDE to, among other things, provide access to an online repository of resources to support ethnic studies courses.
- 7) ***Ethnic studies enrollment.*** Enrollment in, and course offerings of, ethnic studies courses has been growing in recent years, but a significant number are not approved as meeting “A-G” admissions requirements of the UC and the CSU systems, particularly those offered as social science courses. In order for courses to receive approval, course outlines must be submitted to, and approved by, the UC. In recognition of this problem, the statute authorizing the development of the model curriculum in ethnic studies requires that it include examples of courses “A-G” approved courses, including course outlines for those courses, to the extent feasible.

The CDE data on course enrollment and offerings in ethnic studies indicates the following:

- In 2018-19, 26,218 students were enrolled in ethnic studies courses (social science and English language arts combined), up from 8,678 in 2014-15.
 - In 2018-19, 1,307 ethnic studies courses (social science and English language arts combined) were taught in 396 schools, compared with 696 courses in 177 schools in 2014-15.
- 8) **Capacity questions.** Requiring students to complete a course in ethnic studies as a condition of graduation necessitates that each high school offers sufficient sections of ethnic studies courses to each student that attends high school. Based on the CDE data above, of the 1,881,086 students enrolled in high school in the 2018-19 school year, just 1.4 percent were enrolled in an ethnic studies course. Accordingly, this means that schools will have to significantly ramp up ethnic studies course offerings, and do so quickly, in order to meet the 2029-30 school year deadline in the bill. With these figures in mind, *the committee may wish to consider:*
- a) Whether school districts, county offices of education, and charter schools have sufficient resources to offer an ethnic studies course and instructional materials for each student?
 - b) Are there enough appropriately credentialed teachers to teach ethnic studies to each student that attends high school?
 - c) Do students have sufficient flexibility in their schedules to absorb an additional required course while retaining the freedom to explore elective courses and career technical education courses or pathways?
 - d) Do additional graduation requirements potentially crowd out or discourage other local graduation requirements? According to the CDE “most school districts in California require between 22 and 26 one-year courses (or the equivalent) for graduation.” The state requires a minimum of 13 courses.
- 9) **Existing state and local graduation requirements.** Since the 1986-87 school year, the Education Code has required students receiving a diploma from a California high school to have completed all of the following one-year (unless otherwise specified) courses while in high school:
- Three courses in English.
 - Two courses in mathematics, including one year of Algebra I.
 - Two courses in science, including biological and physical sciences.
 - Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course

in American government and civics, and a one-semester course in economics.

- One course in visual or performing arts, foreign language, or commencing with the 2012-13 school year, career technical education.
- Two courses in physical education.

Additionally, existing law authorizes local school district governing boards to impose additional graduation requirements beyond the state-mandated graduation requirements, and several school districts have recently made completion of a course in ethnic studies a local graduation requirement. Among them are Montebello Unified School District, El Rancho Unified School District, Sacramento City Unified School District, and Coachella Valley Unified School District.

It should be noted the Legislature has considered a burgeoning list of subjects for a new graduation requirement in recent years, including financial literacy, service learning, health, and now, ethnic studies. Additionally, the Legislature has authorized Advanced Placement (AP) computer science to count toward local math graduation requirements beyond the state requirements, and expanded the foreign language or visual and performing arts requirement to also be satisfied by a career technical education course. Moreover, other bills have attempted to revise the number of courses required for certain existing subjects. *The committee may wish to consider* whether all of these measures – taken together – as well as the differences between the state minimum requirements and the CSU/UC requirements, indicate a need to revisit the state graduation requirements as a whole and perhaps make appropriate changes, including the addition of new requirements in existing and new subjects.

- 10) ***College level ethnic studies requirements.*** Last year, the Legislature passed, and the Governor signed into law, AB 1460 (Weber, Chapter 32, Statutes of 2019), which requires the CSU, commencing with the 2021-22 academic year, to (1) provide courses in ethnic studies at each of its campuses; and (2) require, as an undergraduate graduation requirement commencing with students graduating in the 2024-25 academic year, the completion of, at minimum, one three-unit course in ethnic studies.

This session, the Legislature is also considering AB 1040 (Muratsuchi, 2021), which requires that the California Community Colleges, by the 2022-23 academic year, offer at least one course in ethnic studies at all of its campuses, and requires each community college district, by the 2024-25 academic year, to require the completion of at least one three-unit course in ethnic studies as a requirement to obtain an associate degree. AB 1040 is scheduled to be heard in this committee on July 14, 2021.

If both this bill and AB 1040 were to be enacted, a California student that graduates from a California public high school, earns an associate degree, and ultimately graduates from a CSU, will have been required to take at least two ethnic studies courses. The bill does require the units earned by students for

successful completion of an ethnic course at a community college to be eligible for transfer to count toward a baccalaureate degree and, if applicable, to meet the ethnic studies general education graduation requirements at the CSU.

The committee may wish to consider whether these efforts are unintentionally duplicative of the overall goal, and if so, at what level it is most impactful to direct those efforts. However, it would also be fair to note that not every student in a community college attended a public school and not every associate degree recipient matriculates to a CSU. Further, there may also be value in revisiting ethnic studies in college after an initial exposure to it in high school.

- 11) ***Do the existing statewide graduation requirements apply to charter schools?*** According to the CDE, whether students at a California approved charter school are required to complete the 13 minimum courses mandated for graduation “depends on a variety of factors.” This bill eliminates that ambiguity to clarify that charter school students, like all other public school students, are subject to the statewide graduation requirements. This is analogous to other statewide requirements that are applicable to charter schools, including that charter schools provide instruction that meets all statewide academic content standards and conduct statewide assessments. However, ***staff recommends a technical amendment*** to clarify that charter schools may also require additional local graduation requirements, just as school districts are authorized to do.
- 12) ***Similar efforts in other states.*** California would not be the first state to consider increasing ethnic studies instruction. Beginning last fall, as a result of Senate Enrolled Act 337, all high schools in Indiana were required to offer an ethnic and racial studies elective course at every school. In Oregon, as a result of House Bill 2845, an advisory group is developing ethnic-studies standards into existing statewide social-studies standards where “it fails to recognize the histories, contributions and perspectives of ethnic minorities and social minorities.” The Oregon Department of Education is currently developing ethnic studies standards. While these efforts are similar, they do not go as far as this bill in requiring ethnic studies as its own graduation requirement.
- 13) ***Ethnic studies course outlined in History-Social Science framework.*** The History-Social Science Framework adopted by the SBE in 2016 describes high school elective courses in ethnic studies as follows:

“Ethnic studies is an interdisciplinary field of study that encompasses many subject areas including history, literature, economics, sociology, and political science, among others. In this course, students focus on an in-depth comparative study of the history, politics, culture, contributions, challenges, and current status of ethnic groups in the United States. It is also important for students to learn the national origins of ethnic groups and their transnational linkages. In Ethnic Studies, students examine the process of racial and ethnic formation of ethnic minorities in a variety of contexts: political, legal, social, historical, economic, and cultural. The course concentrates, to a great extent, on the experiences of various ethnic minorities in the United States and

the ways in which their experiences were impacted by the issues of race, ethnicity, class, gender, and the interaction among different ethnic groups. Students will also address how individuals within specific ethnic groups think and feel about themselves and their group as it can be represented by literature, memoirs, art, and music. To understand ethnic identity in their local communities, students can volunteer with local community organizations and centers that serve specific ethnic populations.”

In addition, many of these concepts are incorporated throughout the newly adopted framework. For example, as described in the framework’s executive summary, “Students in first grade develop a deeper understanding of cultural diversity and learn to appreciate people from various backgrounds and the many ways of life that exist in the larger world.” At the high school level, one of the four themes in eleventh grade is “changes in racial, ethnic, and gender dynamics in American society.”

- 14) ***Other related and previous legislation.*** AB 2772 (Medina, 2018-19 Session) was substantially similar to this bill an earlier version but ultimately would have established a three-year grant program to require the CDE, contingent upon funding, to award grants to school districts to fund a semester- or year-long course in ethnic studies as part of a local graduation requirement in ethnic studies that is applicable to all students. AB 2772 was vetoed by Governor Brown, who stated:

“This bill establishes a three-year grant program for school districts that require ethnic studies in order to graduate.

School districts already can, and are, requiring ethnic studies for graduation. While I recognize the value of these courses, I am reluctant to encourage yet another graduation requirement, especially when students are already overburdened by multiple tests and endless hours of homework.”

AB 2016 (Alejo, Chapter 327, Statutes of 2016) required the development of a model curriculum in ethnic studies and required school districts which elect to offer one course in ethnic studies to make the course available in at least one year during a student’s enrollment in grades 9-12.

AB 1689 (Low, 2015-16 Session) would have required, beginning with the high school class of 2022-23, that at least one of the courses required for graduation include a service-learning component. This bill was held in the Assembly Appropriations Committee.

AB 524 (Low, 2015-16 Session) would have required, beginning with the high school class of 2020-21, that at least one of the courses required for graduation include a service-learning component. This bill was held in the Assembly Appropriations Committee.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond
California Latino Legislative Caucus
California Association for Bilingual Education
California Association of Black School Educators
California Association of Student Councils
California Department of Insurance
California Federation of Teachers
California Teachers Association
Californians Together
Compton Unified School District
Dolores Huerta Foundation
Fresno Unified School District
Hispanic Association of Colleges and Universities (HACU)
Latino Policy & Politics Initiative; the
League of Women Voters of California
Monterey County
National Association of Social Workers, California Chapter
NextGen California
Office of the Riverside County Superintendent of Schools
Peace and Freedom Party of California
San Diego Unified School District
San Francisco Unified School District
Simi Valley Unified School District
Student Senate for California Community Colleges
The Education Trust - West
Unidosus

OPPOSITION

Amcha Initiative
American Association of Jewish Lawyers and Jurists
American Council of Trustees and Alumni
American Truth Project
Americans for Peace and Tolerance
B'nai B'rith International
Black Americans for Inclusive Ethnic Studies
Bulldogs for Israel (Brooklyn College)
California Association of Scholars
California Family Council
Californians for Equal Rights
California Right to Life Committee, Inc.
Californians for Equal Rights
CAMERA on Campus
Campus Anti-Semitism Task Force of the North Shore
Capitol Resource Institute
Chinese American Citizens Alliance Orange County
Christians and Jews United for Israel
Club Z

Coalition for Jewish Values
Committee for Accuracy in Middle East Reporting and Analysis (CAMERA)
Concerned Women for America
Creative Community for Peace
CUFI on Campus
Davis Faculty for Israel
Eagles Wings
Education Without Indoctrination
Educators for Quality and Equality
Endowment for Middle East Truth (EMET)
Facts and Logic About the Middle East (FLAME)
Fuel for Truth
Herut North America, U.S. Division
Hillel of Silicon Valley
Institute for Black Solidarity with Israel
Iranian American Jewish Federation
Iranian Jewish Women's Organization
Israel Peace Initiative (IPI)
Jewish American Affairs Committee of Indiana (JAACI)
Jewish War Veterans of the USA
Latinx for Quality Education
Magshimey Herut
Michigan Jewish Action Council
Middle East Forum
Middle East Political and Information Network (MEPIN)
National Christian Leadership Conference for Israel
National Jewish Advocacy Center
North Carolina Coalition for Israel
Pacific Justice Institute
Parents Defending Education
Proclaiming Justice to the Nations
Rabbinical Alliance of America
Real Impact
Rhode Island Coalition for Israel
Russian Jewish Community Foundation
San Diego Asian Americans for Equality
Scholars for Peace in the Middle East
Students and Parents Against Campus Anti-Semitism
Students Supporting Israel National 4
The Israel Christian Nexus
The Israel Group
The Lawfare Project
World Jewish Congress North America
Young Jewish Conservatives
Zachor Legal Institute
Zionist Organization of America
Numerous individuals