

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell , Chair  
AB 104 (Lorena Gonzalez) – As Amended March 16, 2021

**SUBJECT:** Pupil instruction: retention, grade changes, and exemptions

**SUMMARY:** Requires, as an urgency measure, local educational agencies (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. Specifically, **this bill:**

Promotion/retention policy:

- 1) Requires LEAs to implement an interim policy for the 2021-22 academic year for students enrolled or entering kindergarten in the in the 2020-21 academic year to be retained in their 2020-21 grade level in the 2021-22 academic year.
- 2) Requires, by June 15, 2021, an LEA to:
  - a) Develop an application for a parent, as defined, to request that their student be retained in the 2021-22 academic year;
  - b) Develop processes regarding how the decision to retain a student will be made, including:
    - i) Consultation with the requesting parent, student, and student’s teacher of record and consideration of existing student data and other information indicating whether retention is in the best interests, academically and socially, of the student;
    - ii) Requires that, as part of this consultation, the parent is informed of the risks and benefits of grade retention.
    - iii) Assurances that a retention decision is consistent with a pupil’s Individualized Education Program (IEP); and
    - iv) Develop deadlines for a parent to submit a retention application, for a consultation to be completed, and for the LEA to make a retention decision.
- 3) Requires, by July 1, 2021, an LEA or charter school to provide written notice of the interim retention policy to parents of eligible students, and post the notice on its website. Requires the notice to include:
  - a) A copy of the application;

- b) An explanation of the processes for determining if a student should be retained; and
  - c) Applicable deadlines.
- 4) Requires that, by August 1, 2022, an LEA or charter school to notify a requesting parent of its decision regarding their student's retention application.
  - 5) States that a student with a positive retention determination shall be permitted to enroll in the student's 2020–21 grade level for the 2021–22 academic year.
  - 6) Defines a “local educational agency” to mean a school district, county office of education, or charter school.
  - 7) Defines “parent” to mean the natural or adoptive parent or guardian, the person having legal custody, the educational rights holder.

Pass/no pass credit for secondary courses

- 8) Authorizes a parent, as define, whose student has completed coursework towards graduation during the 2020-21 school year to apply to the student's LEA to have a letter grade earned for that course, as reflected on his or her transcript, changed to a Pass or No Pass grade.
- 9) Defines “local educational agency” to mean a school district, county office of education, or charter school.
- 10) Defines parent to mean a parent, guardian, education rights holder, or, for a student 18 years or older, the student.
- 11) Requires an LEA to grant a request, and prohibits an LEA or charter school from setting any limits on the number or type of courses eligible for a Pass or No Pass option.
- 12) Prohibits the grade change from negatively affecting the student's grade point average.
- 13) Prohibits the grade change from resulting in the forfeiture of the student's eligibility or entitlement to state or institutional student financial aid.
- 14) Requires the California State University (CSU) and private postsecondary institutions, and encourages 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.
  - b) On or before April 15, 2021, notify the CDE if the institution will do so.
- 15) Requires the CDE, on or before May 1, 2021, to post on its website, and provide to LEAs, both of the following:

- a) An application template for use by LEAs for grade changes; and
  - b) A list of postsecondary institutions operating in the state that have indicated, that they will accept for admission purposes, and without prejudice, a transcript with a Pass or No Pass grade instead of a letter grade, as specified.
- 16) Requires an LEA serving high school students, on or before June 15, 2021, to post a notice on its website and provide written notice to its students and their parents or guardians of the grade change option. Requires this notice include all of the following:
- a) The application to request a grade change.
  - b) The list of postsecondary institutions accepting the grade changes for admissions purposes.
  - c) A statement that some postsecondary institutions, including those in other states, may not accept a Pass or No Pass grade instead of a letter grade for admission purposes.
- 17) Requires students to submit applications to LEAs on or before July 1, 2021 and prohibits LEAs from accepting applications after that date.
- 18) Requires LEAs to change a transcript pursuant and shall notify the student and student's parent or guardian of the change by July 15, 2021.
- 19) Requires that, absent a request to change a transcript, a letter grade earned in the 2020–21 school year for a course required for high school graduation remain on the student's transcript.
- 20) Limits the application of these provisions to the 2020-21 school year.

Local graduation requirements, fifth year of instruction:

- 21) Requires school districts and charter schools to exempt a pupil who was enrolled in the pupil's third or fourth year of high school during the 2020–21 school year from all coursework and other requirements adopted by the governing body that are in addition to the statewide coursework requirements.
- 22) Requires school districts and charter schools to provide a pupil who was enrolled in the pupil's third or fourth year of high school during the 2020–21 school year and who is not on track to graduate in the 2020–21 or 2021–22 school years the opportunity to complete the statewide coursework required for graduation may include, but is not limited to, completion of the coursework through a fifth year of instruction, credit recovery, or other opportunity to complete the required coursework.

**EXISTING LAW:**

- 1) Appropriates \$4.6 billion to LEAs, charter schools, and the State Special Schools for the Blind and Deaf for the purpose of implementing a learning recovery program that, at a minimum, provides supplemental instruction, support for social and emotional well-being, and, to the maximum extent permissible, meals and snacks to, at a minimum, pupils who are

eligible for free or reduced-price meals, English learners, foster youth, homeless pupils, pupils who are individuals with exceptional needs, pupils at risk of abuse neglect, or exploitation, disengaged pupils; and pupils who are below grade level, including those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient pupils, high school pupils at risk of not graduating and other pupils identified by certificated staff.

- 2) Requires an LEA to plan supplemental instruction and support in a tiered framework that bases universal, targeted, and intensive supports on pupils' needs for academic, social-emotional, and other integrated pupil supports, and provides the services through a program of engaging learning experiences in a positive school climate.
- 1) Requires that funds be used only for:
  - a) Extending instructional learning time increasing the number of instructional days or minutes provided during the school year, providing summer school or intersessional instructional programs, or taking any other action that increases the amount of instructional time or services provided to pupils based on their learning needs; or
  - b) Accelerating progress to close learning gaps through the implementation, expansion, or enhancement of learning supports including, but not limited to, any of the following:
    - i. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff;
    - ii. Learning recovery programs and materials designed to accelerate pupil academic proficiency or English language proficiency, or both;
    - iii. Educator training, for both certificated and classified staff, in accelerated learning strategies and effectively addressing learning gaps, including training in facilitating quality and engaging learning opportunities for all pupils;
    - iv. Integrated pupil supports to address other barriers to learning, such as the provision of health, counseling, or mental health services, access to school meal programs, before and after school programs, or programs to address pupil trauma and social-emotional learning, or referrals for support for family or pupil needs;
    - v. Community learning hubs that provide pupils with access to technology, high-speed internet, and other academic supports;
    - vi. Supports for credit deficient pupils to complete graduation or grade promotion requirements and to increase or improve pupils' college eligibility;
    - vii. Additional academic services for pupils, such as diagnostic, progress monitoring, and benchmark assessments of pupil learning; or
    - viii. Training for school staff on strategies, including trauma-informed practices, to engage pupils and families in addressing pupils' social-emotional health needs and academic needs.

- 2) Requires that a LEA use at least 10% of its apportionment to hire paraprofessionals to provide supplemental instruction and support through the duration of this program.
- 3) Requires LEAs to use at least 85% of this apportionment for expenditures related to providing for in-person services specified above, and allows an LEA that has forfeited “re-opening” to expend up to 10 percent of this funding to support school reopening for instructional services related to learning loss.
- 4) Allows LEAs to expend up to 15% to increase or improve services for pupils participating in distance learning or to support activities intended to prepare an LEA for in-person instruction, before in-person instructional services are offered.
- 5) Requires, on or before June 1, 2021, the governing board or body of LEA to adopt at a public meeting a plan describing how the apportioned funds will be used and requires that within 5 days the LEA submit the plan to its county office of education, chartering authority, or the state, and requires that plans to be sent to the Superintendent of Public Instruction (SPI) upon request.
- 6) Requires that LEAs provide an opportunity for parents and schoolsite staff to be involved in the development of the plan, and requires that the SPI develop and post on the department’s website a template for the plan.
- 7) Encourages LEAs to engage, plan, and collaborate on program operation with community partners and expanded learning programs, and leverage existing behavioral health partnerships and Medi-Cal billing options, in the design and implementation of these services. (Education Code (EC) 43522).
- 8) Appropriates \$355 million from the Federal Trust Fund, \$1.14 billion from the Coronavirus Relief Fund, \$2.85 billion from the Coronavirus Relief Fund, \$539 million from the General Fund, and \$439.8 million from the Coronavirus Relief Fund to be distributed to LEAs based upon specified formulae.
- 9) Requires that funds from the Federal Trust Fund be used from March 13, 2020 to September 30, 2022 and all other funds allocated to be used from March 1, 2020 to December 30, 2020, unless otherwise provided in federal law, for activities that directly support academic achievement and mitigate learning loss related to COVID-19 school closures
- 10) Requires that LEAs adopt, on or before September 30, 2020, a learning continuity and attendance plan.
- 11) Defines “distance learning” for the 2020-21 school year as instruction in which the student and instructor are in different locations and students are under the general supervision of a certificated employee of the LEA.
- 12) Specifies, for the 2020-21 school year, the minimum school day for an LEA (EC 43501), and requires LEAs to meet instructional day requirements for 2020-21 through a combination of in-person and distance learning instruction, and are exempted from minimum instructional minute requirements for physical education. (EC 43502)

- 13) Requires for 2020-21, that instructional minutes be determined for in-person instruction as time under the immediate physical supervision of a certificated employee of the LEA and for distance learning based on the time value of assignments as determined and certified by a certificated employee of the LEA, or a combination of both instruction types. (EC 43502)
- 14) Authorizes distance learning to be offered on an LEA or schoolwide level as a result of an order or guidance from a state or local public health officer, or for students who are medically fragile or would be put at risk by in-person instruction, or who are self-quarantining because of exposure to COVID-19 for the 2020-21. (EC 43503)
- 15) Requires LEAs to provide nutritionally adequate meals to students who are eligible for free and reduced-price meals, whether they are engaged in in-person instruction or distance learning in 2020-21, subject to approved state-level waivers from the U.S. Department of Agriculture. (EC 43503)
- 16) Authorizes a hold-harmless for the purpose of calculating apportionment in the 2020-21 fiscal year; requires the CDE to use the average daily attendance in the 2019-20 fiscal year reported from July 1, 2019, to February 29, 2020, as specified, except for new charter schools commencing instruction in 2020-21. (EC 43502)
- 17) Requires LEAs to document daily participation for each student on each school day during 2020-21 for which distance learning is provided. Daily participation may include, but is not limited to, evidence of participation in online activities, completion of regular assignments, completion of assessments, and contacts between employees of the LEA and students or parents or guardians. (EC 43504)
- 18) Requires LEAs to ensure that a weekly engagement record is completed for each student during 2020-21 documenting synchronous or asynchronous instruction for each whole or partial day of distance learning, verifying daily participation, and tracking assignments. (EC 43504)
- 19) Requires that students not participating daily in either in-person instruction or distance learning during 2020-21 be deemed absent by the LEA, and requires the LEA to develop written procedures for tiered reengagement strategies for all students who are absent from distance learning for more than three schooldays or 60% of the instructional days in a school week.
- 20) Requires each LEA to adopt a learning continuity and attendance plan by September 30, 2020 for the 2020-21 school year in consultation with key stakeholders; and waives the requirement for LEAs to adopt a local control and accountability plan for the 2020-21 school year. (EC 43509).
- 21) Requires the SPI, in consultation with the SBE, to develop a template for the learning and continuity attendance plan by August 1, 2020.
- 22) Executive Order N-26-20, signed by the Governor on March 13, 2020 includes provisions relating to the funding of LEAs (including school districts, county offices of education, and charter schools) during the State of Emergency proclaimed on March 4, 2020 as a result of the threat of COVID-19.

- 23) Executive Order N-30-20, signed by the Governor on March 17, 2020 waives the requirement that all students be administered academic assessments in mathematics, English language arts, and science, as specified, for the 2019-20 school year for all schools in the state, based upon the impact of the COVID-19 pandemic on students and school communities, subject to a federal waiver of the requirement.
- 24) Requires the governing boards of LEAs to adopt policies regarding student promotion and retention and requires that students be promoted or retained only as provided in those policies. (EC 48070)
- 25) Requires that the policy provide for the identification of students who should be retained and who are at risk of being retained in their current grade level on the basis of either of the following:
- a) The results of the statewide standardized assessments in English language arts and mathematics; or
  - b) The student's grades and other indicators of academic achievement designated by the district.
- 26) Requires that the policy base the identification of students in specified elementary grades primarily on the basis of the student's level of proficiency in reading, and in subsequent grades primarily on the basis of the student's level of proficiency in reading, English language arts, and mathematics.
- 27) Requires that if either the students test scores or grades, as specified above, identifies that a student is performing below the minimum standard for promotion, the student be retained in his or her current grade level unless the student's regular classroom teacher determines in writing that retention is not the appropriate intervention for the student's academic deficiencies. (EC 48070.5)
- 28) Requires school districts to exempt students in foster care, those who are homeless, students who transfer from juvenile court schools, students from military families, migrant students, and students participating in newcomer programs who transfer between schools any time after the completion of the students' second year of high school from all coursework and other requirements that are in addition to state graduation requirements, unless a school district makes a finding that a student is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school.
- 29) 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.
- 30) 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. (EC 49066)

- 31) 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.
- 32) 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)

**FISCAL EFFECT:** The Office of Legislative Counsel has keyed this bill as a possible state-mandated local program.

**COMMENTS:**

*Need for the bill.* According to the author, "The outbreak of the COVID-19 pandemic has exacerbated educational inequities in California's school system at an unprecedented scale. Mounting evidence indicates that our most vulnerable students lack the necessary academic, social-emotional, and technological supports needed to be successful in distance learning, leaving them to fall behind and underperform. For some students, nearly a year of educational progress has been lost. AB 104 will provide a robust statewide response that does not punish students for the lost learning time during the COVID-19 crisis, and instead provides students and families with the learning and social-emotional recovery opportunities needed to address their unique circumstances and get back on track."

*AB 86 provides funding for COVID-19 related learning loss.* AB 86 (Committee on Budget) Chapter 10, Statutes of 2021, enacted earlier this month, appropriates \$4.6 billion in one time funding to expand learning and support for students affected by the COVID-19 related school disruptions. That bill requires that LEAs provide supplemental instruction and support, starting in the summer of 2021, to many students who have been particularly affected by the pandemic, such as students who are low income, homeless, in foster care, are English learners, and those who have had limited internet connectivity. The bill also requires that LEAs plan these supports based on a tiered framework with engaging learning opportunities in a positive school climate. Authorized uses of the funds include:

- Tutoring or other one-on-one or small group instruction provided by certificated or classified staff
- Learning recovery programs and materials designed to accelerate academic and English language proficiency
- Educator training in accelerated learning strategies and effectively addressing learning gaps
- Integrated pupil supports to address other barriers to learning, such as the provision of health, counseling, or mental health services, access to school meal programs, before and after school programs, referrals for support for family or pupil needs, or programs to address pupil trauma and social-emotional learning

- Community learning hubs that provide students with access to technology, internet access, and other academic supports
- Supports for credit deficient pupils to complete graduation or grade promotion requirements
- Additional academic services such as diagnostic assessments of pupil learning needs.
- Training for school staff on strategies, including trauma informed practices, to engage students and families in addressing students' social emotional health and academic needs

This approach is supported by research on effective summer learning. A 2018 PACE research brief emphasized that effective summer programs provide engaging programs with both academic and enrichment offerings. Noting that consistent attendance is key to improving outcomes, they point to research indicating that districts that integrate academics and enrichment in a positive climate experience strong program attendance. The brief notes that remediation, credit recovery, and skill development goals can be achieved if programs focus on engaging and motivating students.

The National Summer Learning Project, a research initiative conducted by the RAND Corporation, started in 2011 to evaluate the effect of summer learning programs, found that summer learning programs are a promising way to narrow the large achievement gap between children of the lowest and highest income families, but note that “simply offering a program does not guarantee results.”

RAND conducted the first randomized controlled trial to test whether voluntary, district-run summer learning programs can improve academic, behavioral, and social and emotional learning outcomes for low-income, urban youth. This research found that voluntary summer learning programs for low income students can positively impact student achievement in mathematics and language arts as well as social/emotional outcomes, but that duration, attendance, and the quality of instruction were key factors in the success of the programs. They note that several components are needed for successful summer programs, and based on this research recommend that schools:

- Plan early and well for both enrichment activities and academics
- Recruit and hire the district's most highly effective teachers and provide professional development
- Schedule the program to include at least 25 hours of math and 34 hours of language arts, operating the program for five to six weeks with three to four hours of academics per day
- Adopt student recruitment and attendance policies that aim for high attendance rates
- Provide teachers with high-quality curriculum materials and small class sizes
- Adopt intentional policies related to site climate, which drives student enjoyment and is correlated with attendance

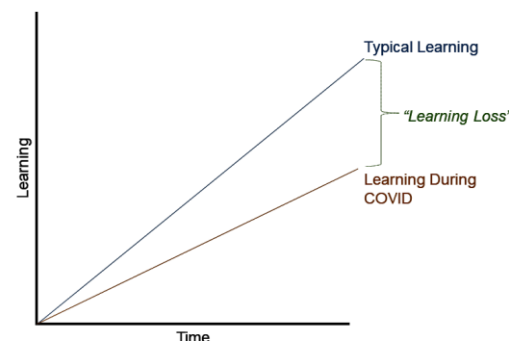
***First estimates of California students' learning loss emerges, shows loss for all students, with greater loss for low income, English learner students.*** In the early months of the COVID 19 pandemic, the disruptions to normal school operations caused by the COVID 19 pandemic were predicted to result in significant declines in academic performance among California students (Kuhfeld, 2020).

The first California data representing a large number of students and disaggregated by grade and subgroup, released this week by the Policy Analysis for California Education (PACE), shows significant learning loss, with the largest effect among low income and English learner students.

These data come from the CORE Data Collaborative, and represent the performance of over 50,000 students enrolled in 18 school districts, on the MAP and STAR assessments in English language arts (ELA) and mathematics administered in grades 4-10. Statewide assessment data is not available, due in part to the suspension of statewide assessments in ELA and mathematics in 2020.

Researchers compared growth from 2019 to 2020, compared to typical growth, based on the prior three school years. The analysis found that:

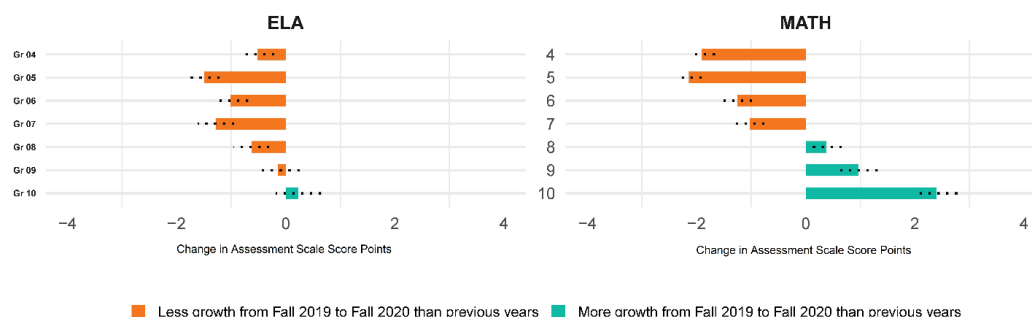
- There has been significant learning loss in both ELA and math, with students in earlier grades most impacted.
- The equity impact is severe – certain student groups, especially low-income students and English Learners, are falling behind more compared to others.



PACE notes, “We find that there has been substantial learning loss, especially in the earlier grades, in both ELA and math. But most importantly, we show that the pandemic and its related disruptions to schooling in California have disproportionately affected low-income students and those learning English. The average learning loss estimates mask the reality that some students in California are suffering during this time much more than others, and that without aggressive and bold actions, these students may never catch up. Any funding or support designed to mitigate learning loss must be targeted specifically to the students that need it most.”

In the tables below, bars to the left of the zero line show learning loss (less growth from fall 2019 to fall, 2020) compared to previous years. Bars to the right indicate learning gain (more growth from fall 2019 to fall, 2020), compared to previous years.

For the STAR assessment, typical yearly growth is 100 scale score points in ELA, and it varies substantially in Math depending on the grade. The table below shows learning change on the STAR assessment.



For the MAP assessment typical yearly growth is about 10 points in elementary school, 5.5 points in middle school, and 3 points in high school.

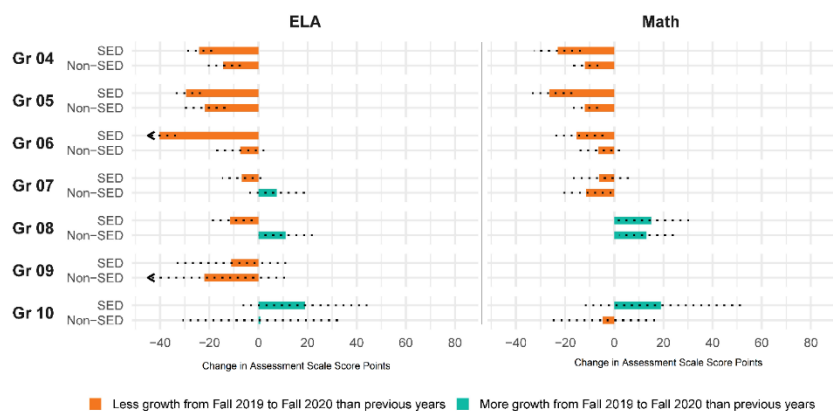
PACE notes that the growth in upper grades is “unexpected and warrants further investigation, to understand if observed growth reveals true learning

acceleration or rather is might be related to increasing comfort with technology, changes in test administration, the fact that fewer students were assessed this year than in prior years, or even student cheating.”

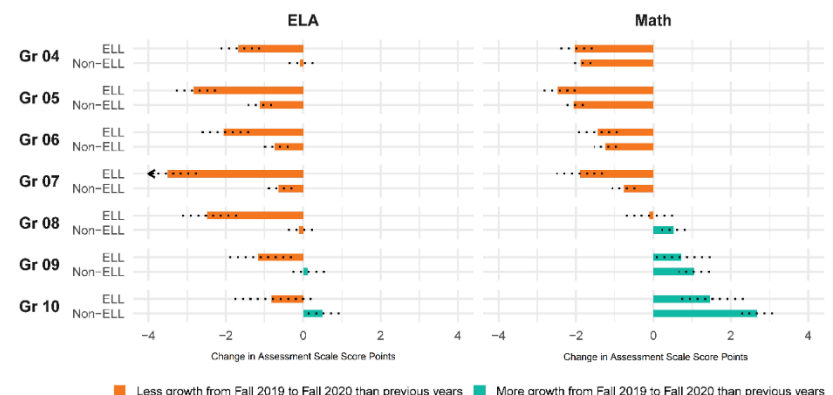
These data show a disproportionate impact for students who are low income and those who are learning English. Specifically, PACE found significantly more learning loss from fall 2019 to fall 2020 compared to previous years for:

- Students from economically disadvantaged (SED) backgrounds, particularly in ELA on both assessments across grades 4-8, and on STAR math in early grades.
- English Learners, especially in MAP ELA across grades 4-9 and on STAR math in early grades.

The table below compares learning change between low income (SED) and non-low income (non-SED) students on the STAR assessment:



PACE notes that in some grades, the impact is quite severe. For example, English learners in 5<sup>th</sup> graders taking the MAP ELA assessment grew 30% slower than in a typical year. And they note that in some grades SED students lost learning while higher income students’ learning actually accelerated.



The adjacent table compares learning change between EL and non-EL students on the MAP assessment.

It is important to note that these data may understate the full effect of the pandemic on learning, as fewer students completed assessments in fall 2020 compared to previous

years, suggesting that disengaged students were less likely to be assessed. A disproportionate number of students with disabilities were also missing from the fall 2020 data. The available data also do not include students enrolled in Kindergarten through third grade who, as discussed later in this analysis, may be some of the students most affected by the closures. PACE will be releasing additional analyses soon, showing learning loss for students with disabilities and other subgroups.

***National data show a similar picture, also likely understate effects.*** Nationally reported data, much of which fails to include students who did not return for in-person instruction, confirm that students have lost ground:

- McKinsey and Company, a private consulting firm, analyzed national formative assessment data from the Curriculum Associates' i-Ready assessments and found that the students in their sample learned only 67% of the math and 87% of the reading that grade-level peers would typically have learned by the fall. McKinsey states that, on average, this translates to a loss of three months of learning in mathematics and one-and-a-half months of learning in reading. They note that the loss was especially acute in schools that predominantly serve students of color, where scores were 59% of the historical average in math and 77% in reading. They also note that this data excludes students who had not returned to the classroom, and that the data masks variation within schools, which accounts for a significant amount of the variation in achievement.
- Illuminate Education, a private company administering assessments to public school students nationally found, among a national sample of students who took an adaptive assessment in reading and mathematics, “modest reading losses across grades K-8, modest math losses in early elementary grades, and substantial math losses across grades 4-8.” This analysis did not appear to include data for students who did not return to school in the fall, or who were enrolled in distance learning but did not take the assessments.
- The Northwest Education Association (NWEA) examined the reading and math scores of students in grades 3–8 scored on the MAP assessment in fall 2019 compared to 4.4 million students in grades 3–8 assessments in fall 2020. Noting that one in four students typically assessed were missing from this sample, they found that in reading, scores were similar this fall to last fall. But scores for math were considerably lower, between 5 and 10 percentile points, on average. They found some evidence of small declines in reading for some groups of students, concentrated disproportionately among Hispanic and Black students in the upper elementary grades. NWEA notes that “considerable caution is warranted when interpreting fall 2020 assessment results...a sizable population of the most vulnerable students were not assessed in fall 2020, and their achievement is not reflected in the data as a result.”
- Also using MAP data, Stanford University's Center for Research on Education Outcomes (CREDO), estimated learning losses for students in 19 states (of which California was not one), and estimated, based on a typical 180 day school year, that average losses in the spring of 2020 ranged from 57 to 183 days of learning in reading and from 136 to 232 days of learning in mathematics.

- A March, 2021 PACE analysis of oral reading fluency assessment data in over 100 U.S. school districts in 22 states found that students' progress largely stopped in spring 2020 following the onset of the COVID-19 pandemic. In fall 2020, students' gains in reading were stronger and similar to pre-pandemic rates, but those gains were insufficient to recoup spring losses. PACE's analysis found that, overall, students' oral reading fluency in second and third grade is approximately 30% behind expectations.

***Students with disabilities likely significantly affected by school closures.*** While data specific to students with disabilities is not yet available, there is little doubt that the education of many students with disabilities was disrupted by school closures. Research indicates that the “summer slide” in achievement is particularly significant for low income students with disabilities (Gershenson, 2016), suggesting that the disruptions to schooling during the pandemic may have disproportionately significant impacts for these students.

A review of the available research on the effects of the pandemic for these students and their families (Brandenburg, 2020) found:

- During the COVID-19 pandemic, parents became responsible for in-person learning for their children. However, parents were and continue to be ill equipped for this role as they have no training or education in the specialized learning plans used in school...Parents and their students with disabilities reported high levels of anxiety and depressed moods.
- Parents of children with disabilities experienced a loss of their general and community support networks, loss of support from education and therapy specialists, and loss of routine, which continues with the ongoing pandemic.
- For many children, the stress of this sudden transition and loss of the typical school routine resulted in depressive symptoms, acting out, and changes in behavior.
- Parents were overwhelmed by the increased demands on them to provide for their children's schooling, maintain a home routine, and continue their own work responsibilities without opportunity for a break or respite.

A national survey of 1,500 parents conducted by ParentsTogether in May, 2020 reported results consistent with these findings:

- 20% of parents whose children have an Individualized Educational Program (IEP) said that they are receiving those services, and that 39% were not receiving any support at all.
- Children who qualify for individual learning plans were also twice as likely as their peers to be doing little or no remote learning (35% vs. 17%).
- Parents of students with disabilities were twice as likely to say that distance learning is going poorly (40% vs. 19% for those without IEPs).
- Parents were almost twice as concerned about their children's' mental health (40% vs. 23%).

***Youth mental health crisis intensifying as a result of the COVID-19 pandemic.*** The American Academy of Pediatrics noted in recent guidance that “emotional and behavioral health challenges were of growing concern before the COVID-19 pandemic, and the public health emergency has only exacerbated these challenges.”

Prior to the pandemic, the incidence of youth mental health crises was increasing at an alarming rate. Suicide rates among youth ages 10-24 increased over 57% between 2007 and 2018, and as of 2018 suicide was the second leading cause of death for youth ages 15-19, according to the

Centers for Disease Control and Prevention (CDC). Youth visits to pediatric emergency departments for suicide and suicidal ideation also doubled during this time period (Burststein, 2019).

The pandemic has dealt a particularly hard blow to students' mental health and well-being - increasing social isolation, disrupting routines, and eliminating social traditions and rites of passage, while also reducing students' access to schools, which serve as the de facto mental health system for children and adolescents. For students from families also facing economic and other challenges noted below, the crisis is deeper still.

The available evidence documents intensifying mental health impacts among students during the pandemic:

- FAIR Health analyzed data from its database of over 32 billion private healthcare insurance claim records, tracking month-by-month changes from January to November 2020 compared to the same months in 2019 and found:
  - Overall Mental Health: In March and April 2020, mental health claim lines for individuals aged 13-18, as a percentage of all medical claim lines, approximately doubled over the same months in the previous year.
  - Intentional Self-Harm: Claims for intentional self-harm as a percentage of all medical claim lines in the 13-18 age group comparing April 2020 to April 2019, doubled (100%).
  - Overdoses: For the age group 13-18, claim lines for overdoses increased by 119% in April 2020 over the same months the year before.
  - Anxiety and Depressive Disorders: For the age group 13-18, in April 2020, claim lines for generalized anxiety disorder increased 93.6% as a percentage of all medical claim lines over April 2019, while major depressive disorder claim lines increased 84% percent and adjustment disorder claim lines 90% percent. Claims for obsessive compulsive disorder also increased for children aged 6-12.
  - Gender Disparities: More females than males were associated with mental health claim lines throughout the age range 13-22, and that disparity increased from January to November 2020. The disparity was especially evident with respect to intentional self-harm in the 13-18 age group. At the height of the disparity, in August 2020, females accounted for 84% of the distribution in this age group, males for 16 percent.
- According to the CDC, the proportion of children's mental health-related emergency room visits among all pediatric emergency room visits increased and remained elevated through between April and October of 2020. Compared with 2019, the proportion of mental health-related visits for children aged 5-11 and 12-17 years increased approximately 24% and 31%, respectively.
- A student survey conducted by the ACLU of California at the start of the pandemic found rising rates of adolescent students reporting needing mental health services (22% to 32%), and a decline in reported wellness (from 65% to less than 40%). 23% of students rated their mental wellness at a level requiring immediate intervention.

- According to a March, 2021 EdSource report, calls to the National Eating Disorders Hotline have increased 40% since March 2020, and hospitalizations for eating disorders UCSF Benioff Children's Hospitals have doubled.
- A study of pediatric emergency department calls for suicide and suicidal ideation among 11 to 21 year olds in one large Texas city (Hill, 2020) before and after the onset of the pandemic found that suicidal ideation was 60% and 45% higher in March and July 2020, respectively, than in March and July 2019. The average age of callers was 14.5 years.
- According to the New York Times, this month the Clark County School District, which serves the city of Las Vegas, Nevada, voted to bring some students back for in-person instruction in response to 18 suicides which occurred over 9 months - double the number the district saw during the entire previous year. The youngest student lost to suicide was 9 years old.

***"Lost" students.*** Available preliminary enrollment data reported by the CDE, as well as national estimates of the effect of the pandemic on enrollment, raises serious concerns about the number of students who were "lost" to the system in the current school year, and the long term effects of that absence on high school graduation and future success:

- According to the preliminary data reported by the CDE, as of December, 2020, public school enrollment had declined, year-over-year, by nearly 156,000 students. After accounting for expected natural decline in enrollment of approximately 0.5%, these data suggest a decline of nearly 130,000 students. Some of these students may have enrolled in private schools or are being homeschooled, and more families than anticipated may have moved out of the state, but evidence below suggests that some may simply not be attending school of any kind this year.
- The Los Angeles Unified School District (LAUSD) reported in the fall of 2020 that enrollment in kindergarten had declined at a rate three times higher than in the two prior years (a 14% year-over-year decline). LAUSD reported that the highest declines were in the poorest neighborhoods, and suggested that this may be due to the inability of low income families to provide full-time support for distance learning, which is needed for young students.
- McKinsey and Company, noting that students who miss more than ten days of school are 36 percent more likely to drop out, reports that in the wake of school closures following natural disasters (after Hurricane Katrina and Hurricane Maria, 14 to 20 percent of students never returned to school), estimates that an additional 2 to 9 percent of high-school students could drop out as a result of the pandemic and associated school closures.
- A report by Bellweather Education Partners estimated that if 5-10% of California's more vulnerable students (foster youth, homeless students, migrant students, English learners) were to not participate in school the state could see an enrollment decline of roughly 102,000 to 204,000 students in the 2020-21 academic year.

***Underlying social inequities intensify losses for disadvantaged students.*** The available data confirm that learning losses related to COVID-19 school disruptions are significantly greater for disadvantaged students than for their peers. The CREDO report noted above concludes that, "the

underlying variations in 2019-2020 learning losses highlight the fact that school closures had highly differentiated impacts, with disadvantaged students generally suffering much more than students from advantaged families. Extrapolating to a student level, these scores suggest that students of color may have lost three to five months of learning in mathematics, while white students lost just one to three months.”

The roots of these disparities lie in both the educational and social context of students’ lives. Many of these conditions were well known prior to the pandemic, and include:

- **Disparities in technology access undermine distance learning.** According to the Public Policy Institute of California (2021), in the spring of 2020 more than 25% of California students did not always have internet access available. The share was larger among children in low-income (43%), African American (39%), and Latino (33%) families. A third of all households did not always have a device available for learning, including half of low-income households. In spite of efforts to improve access, “internet access remains a widespread problem. More than 30% of Latino students still lack reliable home internet, as do nearly 40% of low-income students—essentially unchanged from the spring.”
- **“Essential,” low wage employment reduces parents’ ability to support distance learning, increases spread of virus.** The “essential” nature of employment among many low income parents has left them unable to supervise distance learning. Employment outside the home is also a factor in markedly higher disease rates in low income communities, which further degrades family capacity and will likely also prolong the duration of distance learning in schools in these communities. Low wage employment and unemployment, coupled with high housing costs, forces families to live in overcrowded housing, further increasing spread of the virus. A January, 2021 Los Angeles Times article reported that test positivity rates among students in communities where the median income is \$37,000 was 32%, while in a community where the median income is \$73,000 the student test positivity rate was 4.3%.
- **Parents face compounded crises of unemployment, housing insecurity, food insecurity, lack of child care.** The economic consequences of the pandemic are compounded for many low income families. Adding to higher disease and death rates and the closure of schools, many face unemployment, overcrowded housing or homelessness, the threat of eviction, food insecurity, lack of child care, all in the context of a national political climate which in recent years has been particularly hostile toward immigrants and people of color. All of these factors are well-established threats to students’ academic success, and further reduce parents’ capacity to keep their students engaged with distance learning and support their academic growth.

***Waivers for in-person instruction went disproportionately to private schools.*** CDPH guidance permits schools in the most restrictive “purple” tier to open to serve students in-person in grades K-6 through a waiver process.

According to a CalMatters analysis of CDPH data, as of September, 2020, more than 500 private school waivers had been approved, compared with roughly four dozen public school districts and charter schools, comprising more than 120 campuses. These waivers represent at least 25% of private school K-6 enrollment, but just 1.6% of K-6 public school enrollment.

***D and F grades increasing as a result of COVID-19 school disruptions.*** This bill would require LEAs to establish a process for secondary students to obtain pass/no pass credit for during the 2020-21 academic year.

In 2020, the CDE issued 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.

A number of school districts are reporting an increase of D and Fs in the fall semester of 2020. According to the San Jose Mercury News, in the Sequoia Union High School District in Redwood City the percentage of students with more than one failing grade this fall increased from 20% in 2019 to 29%, a nearly 50% increase. Mt. Diablo Unified School District reported a similar rise in high school students failing more than one grade: 31% from 19% the previous two academic years. In Sonoma County, its ten school districts with high school report an increase, from 27% to 37%, in the number of students having at least one failing grade.

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 are struggling are having difficulty in more than one course.

LAUSD has also reported an increase in the number of students receiving D and F grades this academic year. On average, LAUSD has seen 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%.

LAUSD announced in December that for fall 2020, the district will institute a temporary “in-progress” policy at the conclusion of the fall 2020 semester in order to give students receiving a “No Pass” or “Fail” mark additional time to increase proficiency. All “Fail” and “No Pass” marks will be automatically converted to “Incompletes” or “I” as the academic mark in order to extend the time students have to improve their grades.

***Research on retention shows limited benefit and higher risks of drop-out.*** This bill would require that LEAs adopt a process for parents to request that students be retained. A summary of research on grade retention (Hanover Research, 2013) found little benefit and significant risks of retention:

- Several large- scale statistical analyses have likewise established retention as a strong predictor of student dropout. Estimates vary, with some research suggesting that retention increases the risk that students will drop out of school by 20% to 50%, and other research suggesting that retained students are 2 to 11 times more likely to drop out.

One study suggests that retention is the single most powerful predictor of students dropping out.

- The majority of grade retention research suggests that academic achievement may increase during the year immediately following retention, but that these positive effects diminish significantly over time, with some suggestion that the positive effects of retention disappear within two years.
- Effects on social-emotional outcomes are less clear. A 2009 RAND meta-analysis found that 86% of analyses examining socio-emotional outcomes found no statistically significant differences between retained students and their low-achieving, promoted peers.

A 2009 RAND study which examined the effect of New York City's test-based grade promotion and retention policy for three cohorts of 5th-grade students found that in support services provided under the policy helped students meet promotion criteria and that, overall, few students were retained (1% in the final cohort). It also found that the small number who were retained did not report negative socioemotional effects.

Researchers caution policymakers to avoid the use of a “retention- promotion” dichotomy, instead recommending more comprehensive measures to support students. They note that while recent research suggests that retention policies in New York and Florida have had a positive impact on student achievement, this may be due to supplementing with rigorous, multidimensional intervention efforts, including parental engagement and remedial instruction.

***Arguments in support.*** The California Association of Student Councils writes, “Although many schools adopted Pass/Fail in the Spring of 2020, schools reverted back to their original grading policies for the Fall, even as COVID-19 ravaged our communities even more. Students have been failing classes due to confusion, technological issues, and massive workloads rooted in the negative effects of the pandemic. Students now don’t know if they are able to graduate, unable to access supplemental learning activities or credit recovery. This bill recognizes our organization’s concerns and gives families and schools the flexibility they need to best address California’s student needs.”

***Related legislation.*** AB 86 (Committee on Budget) Chapter 10, Statutes of 2021, provides \$4.6 billion for the purpose of expanding learning through supplemental instruction and support to students to help them recover from the educational disruptions caused by the COVID 19 pandemic.

SB 98 (Committee on Budget and Fiscal Review) Chapter 24, Statutes of 2020, includes numerous provisions relating to distance learning, learning loss, and accountability requirements for the 2020-21 academic year, related to educational disruptions caused by the COVID 19 pandemic.

SB 820 (Committee on Budget and Fiscal Review) Chapter 110, Statutes of 2020, includes multiple provisions relating to education during the COVID 19 pandemic.

## **REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Student Councils  
California Language Teachers' Association  
California State PTA  
Children Now  
Partnership for Children & Youth  
One individual

**Opposition**

None on file

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