



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and college
districts throughout the
state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclsca.org
www.sclsca.org

General Counsel
Carl D. Corbin

Attorneys
Monica D. Batanero
Jennifer Henry
Sarah Hirschfeld-Sussman
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Staggs

Of Counsel
Robert J. Henry
Margaret M. Merchat
Patrick C. Wilson
Frank Zotter, Jr.

LEGAL UPDATE

April 3, 2020

To: Superintendents, Member School Districts (K-12)
From: Damara Moore, Senior Associate General Counsel *DM*
**Subject: CDE Provides Information Related to Grading and Graduation
Memo No. 26-2020**

On April 1, 2020, the California Department of Education (“CDE”) released a Frequently Asked Questions (“The FAQ”) regarding grading and graduation requirements during this period of “distance learning.”¹ The FAQ makes it clear that grading remains a local decision. Here are some key takeaways:

- In addition to traditionally used grading rubrics, which remain an option, Local Educational Agencies (“LEAs”) are permitted to award credit/no credit, pass/fail or a modified A-C or A-D as student grades. New distance learning and grading policies should be arrived at in consultation with the local bargaining unit and as reflected in locally-negotiated agreements. Changes should be clearly communicated to staff, students, and families.² Grading policies should, as always, take into consideration English Learners, homeless and foster youth, and differing access among students to digital learning and other tools or materials.
- The University of California (“UC”), California State University (“CSU”), Community College systems and the Association of Independent Colleges and Universities are willing to accept credit/no credit grades in lieu of letter grades for all courses, including A-G courses, completed in winter/spring/summer 2020 for all students. Grades of credit/no credit will not affect the UC or CSU calculations of GPA.
- Spring semester grading decisions should take into consideration the way grades can or will be determined to illustrate overall performance. This determination should seek to support students in preserving the progress they made prior to school closures and enabling them to demonstrate further learning in ways that are appropriate to their context. Educators

¹ <https://www.cde.ca.gov/ls/he/hn/grade/graduationfaq.asp> (last visited on April 2, 2020).

² An exemplar is Palo Alto’s recent communication of its credit/no credit policy for the remainder of the school year: <https://www.pausd.org/explore-pausd/news/superintendents-message-extended-closure-secondary-grading>.



may need to consider their overall learning goals; alternative means of administering tests, projects, and other assessments; adaptations to assignments; revised weighing in individual teacher gradebooks; and prioritizing the assessment of student mastery of essential standards.

- An LEA may seek a waiver of graduation requirements from the State Board of Education “for specific students.”³ The CDE expects LEAs to enable students to complete state graduation requirements with the flexibility that may be necessary based upon “the nature of assignments and mode of grading during any period of school closure.” Also, LEA boards may modify policies setting graduation requirements higher than the state minimum.
- Attached to this Legal Update is a chart of second semester grading options being employed throughout the state, and considerations related to adopting these options.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2020 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client’s own non-commercial purposes.

³ As with any waiver request, the employee association must have an opportunity to participate in the development of the waiver and the waiver must be approved at a public hearing of the board. More information on the SBE waiver process can be found on the CDE Waiver web page at: <https://www.cde.ca.gov/re/lr/wr/>.

Final (Semester 2) Grading Options¹

LEAs have the authority to determine how final grades will be assigned and teachers have final discretion when assigning grades. There are several options for LEAs and teachers to consider and several factors that should be weighed before making a decision. The following is a non-comprehensive list of options that LEAs have considered and considerations associated with each option.

Final Grading Options	Factors to Consider
<p>Distance Learning Online</p> <p>Teachers will continue to provide instruction, assignments, and assessments using online tools and resources. Final grades will be determined using all assigned work through the end of the semester.</p>	<ul style="list-style-type: none"> • How will teachers be given time to prepare for the transition to full-time distance learning? • How will professional development be made available for teachers? • Do all students and teachers have access to the necessary technology and materials? Are there non-digital alternatives that can be provided, such as printable packets or workbooks? • How will technical support be provided? • How will tutoring and interventions be provided to students? • How will assignments and due dates be communicated? How will completed work be collected? • How will vulnerable populations, including foster youth, students with disabilities, homeless youth, and English language learners, be supported?
<p>Use Current Grades</p> <p>Assign final grades based on students' third-quarter grades or students' grades when the school shutdown occurred, with opportunities to increase the final grade.</p>	<ul style="list-style-type: none"> • How will students with a D or F in a course be given opportunities to raise their grade (e.g., through distance learning assignments, extra credit or case-by-case independent study option)? • How will content in sequential courses (e.g., math or foreign language) that may not be fully covered this semester be taught to students who advance to the next course level in the fall?
<p>Consider Student Opt-Out of Course</p> <p>Allow students to opt out of completing a course. Their grade would remain an incomplete until they could complete the course via independent study, online credit recovery program, or some other</p>	<ul style="list-style-type: none"> • What will the timeline be for completing an incomplete course? • What options will be available to students for completing a course?

¹ Excerpt from CDE's Guidance, <https://www.cde.ca.gov/ls/he/hn/gradegraduationfaq.asp> (last visited April 3, 2020).

option.	
<p>Allow Students to Opt-In to Independent Study</p> <p>Allow students to choose whether they want to accept their current grade or continue via independent study.</p>	<ul style="list-style-type: none"> • At the secondary level, will students be able to opt-in to independent study for individual courses? Will this option be available for some or all courses? • Will teachers determine whether an independent study option is appropriate for their course, or will administrators decide? • If students do not fulfill their responsibilities, will they be graded on the work they have completed or given an incomplete? • What supports will teachers need to provide students? • How will assignments and due dates be communicated? How will completed work be collected? • How will vulnerable populations, including foster youth, students with disabilities, homeless youth, and English language learners, be supported?
<p>Pass/No Pass or Credit / No Credit Grading Option</p> <p>Students will receive a pass/no pass grade for a course.</p>	<ul style="list-style-type: none"> • How will students be held harmless so that these grading approaches do not negatively affect their GPA or eligibility for program placement (including AP or honors courses)? • What constitutes a “credit” or “no credit” grade? Who determines the criteria and will those criteria be consistent for all courses or subject to instructor discretion? • Will students who receive a “no credit” grade have the opportunity to submit extra credit or revise assignments to improve their grade? • Will there be offer an option for students to petition the school for a grade?
<p>Standards-Based Grading</p> <p>Students will be assessed on essential standards using a rubric model instead of percentages.</p>	<ul style="list-style-type: none"> • Which standards are considered essential? • How will standards mastery be assessed? • Will students have multiple opportunities to demonstrate understanding? What platforms and media will students be able to utilize? • Will the standards-based assessment include multiple metrics (like a portfolio composed of a collection of student work) or a single metric (like a multiple-choice final exam)? • Will students have a choice in how they demonstrate their learning? • How will students be provided the necessary instruction and guidance to master the essential

	<p>standards?</p> <ul style="list-style-type: none"> • What interventions will be used for students who struggle to meet the essential standards? • How will assignments and due dates be communicated? How will completed work be collected? • How will vulnerable populations, including foster youth, students with disabilities, homeless youth, and English language learners, be supported?
<p>Final Grades for Career and Technical Education (CTE) and Performance–Based Courses</p> <p>Some courses include a requirement that students obtain a certification, participate in a performance, participate in a competition, complete a set number of hours of training or volunteer work, or complete some other task to demonstrate that they have mastered a given skillset.</p>	<p>Teachers of performance-based and CTE courses should consider the following:</p> <ul style="list-style-type: none"> • What are the essential skills students should master to demonstrate course completion? • How can those skills be demonstrated by students? • What resources are available to students (e.g., does a theater student have access to audio/video recording tools)? • Will students will have the opportunity to complete those tasks remotely (e.g., recording a musical performance)? • Will students have additional opportunities to complete those tasks in the near future (e.g., postponing a performance until the fall)? • Can task expectations can be reasonably modified while achieving the same course objective (e.g., reducing the number of required volunteer hours or expanding volunteer options to include opportunities that allow for social distancing)? • Are there are alternative tasks students could complete (e.g., preparing a presentation or completing a research assignment instead of participating in a debate competition)?