



FOUNDATION  
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## **MEMORANDUM**

# **Uncertain Legal Status of California's Ethnic Studies High School Graduation Requirement Law Must be Clarified by Legislators**

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**JUNE 2023**

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## Overview

The status of AB 101, California's 2021 Ethnic Studies (ES) high school graduation bill, is in question and should be resolved before school districts across California incur substantial compliance costs, by June 2024 at the latest.

In this Memorandum is a detailed analysis of the following:

### **1) Whether AB 101's Ethnic Studies graduation requirement is operative.**

AB 101 was amended in Fall 2021 to state that it is "operative only upon an appropriation of funds by the Legislature for purposes of [the] amendments" that AB 101 added to the Education Code.

While the Legislature appropriated \$50 million for Ethnic Studies course offerings in Summer 2021, that (i) was before AB 101 was amended and enacted in Fall 2021, and (ii) covers a fraction of the State's \$276 million annual Ethnic Studies graduation cost estimate.

This suggests that (i) AB 101's "appropriation" condition has not been satisfied, (ii) Ethnic Studies is not a California high school graduation requirement, and (iii) no state funds are available to reimburse school districts that move forward with an ethnic studies requirement.

### **2) Why it is crucial for the California Legislature to clarify as soon as possible, and no later than June 2024, whether AB 101's graduation requirement is funded and operative.**

School districts that have begun their AB 101 rollouts are incurring substantial start-up consulting costs – up to \$2,500/hour.

School districts that have not begun planning yet will need to set aside substantial funds to cover course planning in their June 2024 budgets at the latest.

Moreover, legislators and the California Commission on Teacher Credentialing (CCTC) have proposed changes to California law based on the assumption that AB 101 is operative. For example, in 2022 the CCTC introduced competency testing waivers for students majoring in Ethnic Studies in order to fill the presumed demand for new high school Ethnic Studies teachers due to AB 101's enactment. Similarly, in 2023 legislators proposed a bill concerning the credentialing of Ethnic Studies teachers arising out of AB 101's presumed state-mandated Ethnic Studies graduation requirement. These changes are premature if AB 101 is not operative.

**3) Why, if AB 101 is inoperative, it should remain so for now.**

- (a) The State of California cannot afford AB 101 now.

AB 101 is currently unaffordable due to (i) California's \$31.5 billion budget shortfall that is expected to continue for several years and possibly grow in size, and (ii) AB 101's estimated annual cost of \$276 million.

- (b) There are no State-approved Ethnic Studies standards yet.

There are no California State-approved standards for Ethnic Studies yet. In contrast, other California Education Code courses that students are required to pass to graduate from high school are grounded in California State Board of Education-approved standards.

- (c) There are no valid and reliable empirical studies demonstrating that Ethnic Studies courses offer students academic benefits yet.

- (d) Implementing a new high school graduation requirement now will be onerous for students and teachers still struggling with post-pandemic education losses.

- (e) There are no effective measures to prevent biased, bigoted, and discriminatory Ethnic Studies course content from being taught.

A version of Ethnic Studies similar to the one previously rejected by the State of California due to its "bias, bigotry, and discrimination" is being widely marketed to California school districts, raising concern about the impact required Ethnic Studies courses will have on students' mental health and well-being.

This Memorandum concludes with recommendations to California policy- and decision-makers:

- California Legislators: Immediately clarify the operability of AB 101 and, if not operative, suspend pending legislation that is based on the assumption that AB 101 is operative.
- California School District Superintendents and Trustees: Pause efforts to implement an Ethnic Studies graduation requirement until the California Legislature confirms that AB 101 is operative.
- California Educational Officials: Do not alter long-standing teacher qualification regulations premised on AB 101 until the California Legislature confirms that AB 101 is operative.

## **Whether AB 101's Ethnic Studies Graduation Requirement is Funded and Therefore Operative**

Governor Newsom signed California Assembly Bill 101 ("AB 101")<sup>1</sup> into law on October 8, 2021. AB 101 amends the California Education Code ("EDC") by adding to the list of high school graduation requirements (e.g. courses in English, Mathematics, Science, Social Studies, etc.) a new requirement: commencing with the graduating class of 2029-30, students are required to complete a one semester ethnic studies course. This subsection also requires that high schools offer at least a one-semester ethnic studies course by the school year 2025-26. (EDC Section 51225.3(a)(1) (G)(i))

AB 101 also states that **"the amendments made to this section [Section 51225.3] by the act adding this subdivision [AB 101] shall become operative only upon an appropriation of funds by the Legislature for purposes of these amendments in the annual Budget Act or another statute."** (EDC Section 51225.3(d)). The Legislature added this condition to AB 101 on September 3, 2021, the deadline for Floor amendments for that legislative session.

This late-addition amendment leaves open the questions of whether the Legislature's "appropriation of the funds" making AB 101 "operative" must (i) happen *after* AB 101 was enacted (October 8, 2021), and (ii) cover AB 101's full implementation cost.

To date, the only appropriation of funds the Legislature earmarked for AB 101 is in the 2021-22 Education Omnibus Budget Trailer bill (AB 130)<sup>2</sup> approved by Governor Newsom July 9, 2021. That bill stipulates that \$50 million is appropriated "to support the creation or expansion of ethnic studies course offerings,"<sup>3</sup> with the further stipulation that this allocation of funds is "contingent upon the enactment of Assembly Bill 101 of the 2021-22 Regular Session."<sup>4</sup>

It does not appear that AB 130's \$50 million Ethnic Studies allocation is the "appropriation of funds by the Legislature for the purposes of these amendments" referenced in AB 101 for the following reasons:

- AB 130's \$50 million appropriation was enacted July 9, 2021, nearly two months *before* AB 101's appropriations clause -- "shall become operative only upon an appropriation of funds" -- was added to the bill.<sup>5</sup> AB 101's last-minute "appropriations" clause would be rendered meaningless and have no effect or consequence if it refers to the \$50 million appropriated by a bill enacted *before* AB 101 became law. Rules of statutory construction state that "every provision should be given effect [and not] be given interpretation that causes it...to have no consequence."<sup>6</sup>
- According to the California Senate Appropriations Committee, adding a new Ethnic Studies graduation requirement could result in ongoing General Fund costs of

approximately \$276 million annually for school districts to comply.<sup>7</sup> AB 130's one-time allocation of \$50 million is a fraction of this estimated cost.

- The Senate's AB 101 September 2021 Floor Analysis references the \$50 million appropriation and the "operative only upon an appropriation" clause separately, suggesting that legislators, when voting on the bill, understood these two to be different from each other and that the "appropriation" referenced in AB 101 is not the \$50 million appropriation in AB 130.

Given that there have not been appropriations "for purposes of" AB 101 since its enactment, it is possible that neither AB 101's Ethnic Studies high school graduation requirement nor its provision requiring secondary schools to offer a one-semester course in Ethnic Studies is currently a state mandate.

## **Why It Is Crucial for the Legislature to Clarify the Status of AB 101's Graduation Requirement**

The answer to whether AB 101 is currently operative is a crucial one for California school districts, California education officials, and California legislators.

### ***Fiscal Impact on California School Districts***

Many school districts do not offer an Ethnic Studies course and have not made Ethnic Studies a high school graduation requirement.

These districts need time to develop this new course, revise their master schedules, train staff, and hire new teachers before the start of the 2025-26 school year in order for students entering 9<sup>th</sup> grade in the Fall of 2025 to enroll in the course and graduate by Spring 2030 as AB 101 provides.

At the latest, school districts must set their budgets to cover these costs *by June 2024* and develop the Ethnic Studies course in the 2024-25 school year. Districts which choose to pilot the course must set aside funds a year earlier, *by June 2023*, to cover course development in 2023-24 and piloting in 2024-25.

These costs are considerable. School districts are being charged up to \$2,500/hour by Ethnic Studies experts to develop course outlines and to train staff.<sup>8</sup> For example:

- \$260,000 Ethnic Studies consulting contract at Santa Rosa City Schools (10,179 high school students at six high schools) with consultation from Arizona-based Acosta Latino Learning;<sup>9</sup>

- \$180,000 Ethnic Studies consulting contract at Jefferson Union High School District (4,325 high school students at five high schools) with consultation from San Francisco State Professors Tintiangco-Cubales and Duncan-Andrade’s Community Responsive Education;<sup>10</sup> and
- \$82,560 Ethnic Studies consulting contract at Castro Valley Unified School District (3,021 high school students at two high schools) with consultation from CSU Northridge Professor Theresa Montano’s Liberated Ethnic Studies Model Curriculum Coalition.<sup>11</sup>

The California Senate Appropriations Committee estimated the cost of AB 101’s Ethnic Studies high school graduation requirement to be \$276 million (averaging over \$200,000 per high school) a year.<sup>12</sup>

Whether these significant costs will be reimbursed by the State depends on whether AB 101 is “operative.”

According to the California Constitution, the State is required to reimburse school districts for State mandated costs.<sup>13</sup> The State is under no obligation to reimburse school districts for costs they incur for programs that State law does not require.

School districts that have already incurred costs for Ethnic Studies course implementation could ask the Commission on State Mandates to rule on their entitlement to reimbursement:

"If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code." (AB 101, Section 4)

If the Commission on State Mandates finds that AB 101 is not operative because, for example, the legislature has not made the “appropriation” referenced in AB 101, it will deny school districts’ reimbursement requests.

Without clarity on whether AB 101 is operative, school administrators are in a difficult position – having to choose between (i) not waiting for the California Legislature to appropriate funds and incurring significant expenses to meet AB 101’s deadline that the State might not reimburse, or (ii) waiting for the California Legislature to appropriate funds after their districts’ 2024-25 budgets are approved (by June 30, 2024) and not having adequate time to prepare for the Ethnic Studies graduation requirement within AB 101’s time frame (the class must be offered by Fall 2025).

As mentioned above, to meet AB 101’s deadlines, school districts must earmark substantial funds in the budgets they adopt *by June 30, 2024 (or by June 30, 2023 if they intend to pilot the course first)* without knowing whether the State will reimburse them for the significant costs they incurred.

## ***Impact on California Education Officials' Regulation Revisions***

The work of the California Commission on Teacher Credentialing (CCTC), whose mission is to facilitate the credentialing of California's teachers, is also affected by AB 101's funding status.

CCTC has been pressed,<sup>14</sup> based on the premise that AB 101's Ethnic Studies high school graduation requirement is operative, to alter existing regulations to facilitate the large-scale credentialing of K-12 Ethnic Studies teachers. In response to the assumed urgency of meeting AB 101's deadlines and need for hundreds of new and newly trained Ethnic Studies teachers, the CCTC has agendized regulation revisions it likely would *not* have considered.<sup>15</sup>

## ***Impact on California Legislators' Consideration of Proposed Legislation***

If AB 101 is not operative, proposed legislation predicated on there being a state-mandated Ethnic Studies graduation requirement is premature. This would include Assembly Bill 1255<sup>16</sup> proposing to require the CCTC to convene a statewide task force to make recommendations on the credentialing of Ethnic Studies teachers to meet the demand for new and newly trained teachers as a result of AB 101's enactment.

Legislators cannot properly evaluate these bills, which entail state resources to carry out, without clarity on whether AB 101 is operative.

This lack of clarity about AB 101's funding status impedes important work of local and state educational agencies and state legislators.

## **If AB 101 is Inoperative, It Should Remain So For Now**

There are several reasons why state legislators should consider keeping AB 101 unfunded and inoperative for the foreseeable future:

### **1. The State of California cannot afford AB 101 now.**

The Senate Appropriations Committee estimates the annual costs of AB 101 to be \$276 million.<sup>17</sup> The California Department of Finance cited AB 101's high cost as justification for its opposition to the bill,<sup>18</sup> an assessment made before California reported in May 2023 a \$31.5 billion State budget shortfall.<sup>19</sup>

On May 15, 2023, the Legislative Analyst's Office, the Legislature's independent fiscal adviser, recommended that the Legislature and Governor Newsom

reduce previously promised K-14 funds that have not yet been allocated to school districts because of this large State budget deficit.<sup>20</sup>

It is not fiscally prudent to fund a new educational initiative that, over the next four years, is projected to add more than a billion dollars to the state's large budget deficit.

## **2. There are no State-approved Ethnic Studies standards yet.**

According to the California Department of Education (CDE), since 1996 the CDE and schools throughout the state “have focused on improving student achievement by implementing world-class academic standards and a statewide system of accountability.”<sup>21</sup>

Unlike other courses required for high school graduation in California's Education Code, for which the state has approved robust content standards that define the knowledge, concepts, and skills that students at each grade level are expected to acquire, *Ethnic Studies has neither state nor national content standards*. (The legislatively mandated Ethnic Studies Model Curriculum (ESMC), whose final version was approved by the California State Board of Education (SBE) in 2021, is “guidance,” not course standards. Schools are free to use, modify or ignore it at their discretion.)<sup>22</sup>

The lack of state-approved content standards for Ethnic Studies courses has created confusion and controversy for a number of school districts seeking to implement Ethnic Studies,<sup>23</sup> with arguments erupting over which ethnic groups should be included and whether to teach the subject through an ideological or fact-based lens. These controversies have made AB 101's implementation more costly and onerous for school districts.

Without state-approved content standards developed by the SBE in an open public process, it is premature to implement a statewide Ethnic Studies high school graduation requirement.

## **3. There are no valid and reliable empirical studies demonstrating that Ethnic Studies courses offer students academic benefits yet.**

California public policy documents related to the teaching of Ethnic Studies in K-12 classrooms since 2016, including the legislative analyses of AB 101, have referred to the same single quantitative study<sup>24</sup> as empirical proof that Ethnic Studies courses improve students' academic achievement, particularly for students of color.<sup>25</sup>

A comprehensive review<sup>26</sup> of that study by professors at the University of California and University of Pennsylvania, however, found that “no conclusion” could be drawn from the

study's data and charged that the study "should not have been published...much less relied upon in the formation of public policy."

Recent standardized test scores show California students are scoring, on average, below grade level in literacy and well below grade level in math, with substantially lower scores reported for some minority groups.<sup>27</sup>

In light of the recent scholarly review discrediting the study that legislators relied upon when approving AB 101, as well as students' low performance in core subjects, legislators should carefully consider whether imposing a new graduation requirement without demonstrable academic benefits is the best use of limited class time and tax dollars.

#### **4. Implementing a new high school graduation requirement now will be onerous for students and teachers still struggling with post-pandemic education losses.**

In its statement of opposition to AB 101, the California Department of Finance stated that in addition to concerns about the high cost of implementing the bill's provisions, there was concern that a new Ethnic Studies graduation requirement would place an undue burden on "vulnerable students," noting that the pandemic had "negatively impacted the ability of many students to meet existing minimum graduation requirements."

Additionally, AB 101 imposes a burden on California's exhausted and stressed-out teachers<sup>28</sup> tasked with teaching a new course or substantially re-designing existing ones to comply with AB 101.

#### **5. There are no effective measures to prevent biased, bigoted, and discriminatory Ethnic Studies course content from being taught.**

A version of Ethnic Studies similar to a draft of the ESMC rejected on the grounds of its "bias, bigotry, and discrimination" is being widely marketed to California school districts, raising concern about the impact required Ethnic Studies courses will have on students' mental health and well-being.

In 2019, the first draft of the legislatively mandated ESMC<sup>29</sup> was opposed by state legislators<sup>30</sup> and the Governor,<sup>31</sup> and rejected by the SBE President,<sup>32</sup> largely because of its discriminatory content, including antisemitic passages.<sup>33</sup>

Concern that the first draft's content could have a negative effect on student mental health was acknowledged within the ESMC draft itself. The draft contained a warning to schools adopting the curriculum that "site counselors" would be needed to handle "different emotions and/or traumas [that] arise from students in dealing with [the

curriculum's] difficult content." In addition, an essay in a collection<sup>34</sup> featured prominently in the first draft contends that while students are not actively taught "resentment and feelings of hate toward the dominant group," in Ethnic Studies classrooms "such strong feelings are part of students' sense-making and development."

Following the rejection of the first ESMC draft, a number of educators involved with developing that draft, many of them university faculty, established private consulting groups<sup>35</sup> to offer professional development services to help K-12 teachers and administrators implement a "liberated"<sup>36</sup> curriculum – variations of the first draft that have also generated significant controversy.<sup>37</sup>

These consulting groups and their consultants have been, upon invitation, widely promoting their "liberated" curriculum. These groups' consultants now have a presence in large and small school districts across the State, including Castro Valley, Hayward, Jefferson Union, Los Angeles, Oakland, San Diego, San Francisco, Santa Barbara and Santa Rosa school districts. Several of these consultants have also contracted with county offices of education,<sup>38</sup> presented at government-sponsored conferences<sup>39</sup> and before California's leading K-12 professional organizations,<sup>40</sup> and trained students and K-12 teachers in using their "liberated" content<sup>41</sup> throughout California.

This is despite state lawmakers including in AB 101 "guardrail" amendments intended to ensure that school districts would *not* adopt the rejected first-draft ESMC or similar curriculum containing "bias, bigotry and discrimination."<sup>42</sup>

A 2021 survey of California middle and high school students found that the pandemic closures took a tremendous toll on students' mental health.<sup>43</sup> Almost half of the nation's public schools are unable to provide needed mental health services to students citing inadequate funding and insufficient trained staff to cover the increased caseload.<sup>44</sup> The problem is so severe in California that Governor Newsom committed \$4.7 billion in 2022 to try to address it.<sup>45</sup>

Requiring high school students to take a course that can incite animus and bigotry towards their classmates will exacerbate students' high levels of anxiety, stress and trauma.

Taken together, these concerns suggest that making AB 101 operational at this time would be ill-advised.

## **Recommendations**

### ***Recommendations for California Legislators***

The Legislature should immediately clarify the operability of AB 101.

If the bill is currently inoperative, the legislature should delay funding AB 101 until all of the following conditions have been met:

- The fiscal outlook for California improves and the State can afford to cover school districts' considerable costs implementing a State-mandated Ethnic Studies high school graduation requirement;
- The SBE has approved Ethnic Studies content standards developed in a public and transparent process;
- Reliable and valid empirical studies are carried out which demonstrate that a required Ethnic Studies course is educationally beneficial for students; and
- Robust, enforceable safeguards are in place to ensure that students will not learn content that stereotypes or targets ethnic or racial groups and contributes to division, animosity and bigotry in California's classrooms.

The legislature should not advance bills that presume the Ethnic Studies high school graduation requirement is currently operative until its operability has been clarified.

### ***Recommendations for California School Districts***

Until State legislators confirm whether AB 101 is operative or pass legislation to fully fund it, school districts should pause efforts to implement an Ethnic Studies graduation requirement given the considerable expenses districts are incurring in preparing for its implementation.

### ***Recommendations for California Education Officials***

Until State legislators confirm whether AB 101 is operative or pass legislation to fully fund it, CCTC officials should not alter teacher-credentialing regulations to facilitate the large-scale credentialing of Ethnic Studies teachers.

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB101](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB101)

<sup>2</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB130](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB130)

<sup>3</sup> AB 130, Section 132 (e)(1)

<sup>4</sup> AB 130, Section 132 (e)(3)

<sup>5</sup> The addition of Subsection (d) to 51225.3 (AB 101, Section 2) was approved by the Senate on September 3, 2021 ([https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB101](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB101) in Compare Versions).

<sup>6</sup> <https://www.law.georgetown.edu/wp-content/uploads/2018/12/A-Guide-to-Reading-Interpreting-and-Appling-Statutes-1.pdf> citing ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW* (2012) at 174 (<https://im919846758.files.wordpress.com/2020/09/rliit.pdf> at pdf page 150)

<sup>7</sup> Senate Floor Analysis of AB 101 on September 7, 2021.

<sup>8</sup> See Oakland Unified contract with Community Responsive Education, approved by trustees on September 14, 2022 (Agenda item S.54), (\$2,500/hour) (See pdf page 2 for fees and pdf page 49 for hours)

<https://www.ousd.org/domain/67>. See also Castro Valley Unified contract with Liberated Ethnic Studies Model Curriculum Coalition, approved by trustees on January 19, 2022 (Agenda Item 8.H) (\$1,720/hour) <https://go.boarddocs.com/ca/castrovalley/Board.nsf/Private?open> (under meetings).

<sup>9</sup> [https://simbli.eboardsolutions.com/SB\\_Meetings/SB\\_MeetingListing.aspx?S=36030438](https://simbli.eboardsolutions.com/SB_Meetings/SB_MeetingListing.aspx?S=36030438) (June 23, 2021 Board Agenda Item F4 (\$99,000) and May 25, 2022 Board Agenda Item F5 (\$161,000))

<sup>10</sup> <https://jeffersonunion.agendaonline.net/public/agency.aspx> (June 15, 2021 Board Agenda Item 5.c.3.5 (\$180,000))

<sup>11</sup> [https://go.boarddocs.com/ca/castrovalley/Board.nsf/files/CALMLR5B8041/\\$file/Copy%20of%20LESMC%20Proposal%201\\_2022.pdf](https://go.boarddocs.com/ca/castrovalley/Board.nsf/files/CALMLR5B8041/$file/Copy%20of%20LESMC%20Proposal%201_2022.pdf) (\$82,650)

<sup>12</sup> <https://amchainitiative.org/wp-content/uploads/2021/08/Senate-Appropriations-Analysis-of-AB-101.pdf> (\$276 million divided by 1,299 public high schools (<https://www.cde.ca.gov/ds/ad/ceffingertipfacts.asp>))

<sup>13</sup> The California Constitution Article XIII B Section 6(a) states, “Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service.”

<sup>14</sup> Two oversight hearings on “Preparing Teachers for the K-12 Ethnic Studies Requirement,” held by the California State Assembly’s Higher Education Committee on May 11, 2022

(<https://ahed.assembly.ca.gov/sites/ahed.assembly.ca.gov/files/hearings/1.%20Agenda%20AHED%2005-11-22%20Oversight%20Hearing.pdf>) and October 26, 2022

(<https://ahed.assembly.ca.gov/sites/ahed.assembly.ca.gov/files/hearings/AHED%2010-26-2022%20Agenda.pdf>),

featured state legislators and CSU and UC Ethnic Studies faculty, many of whom argued for trained and credentialed Ethnic Studies teachers. Assemblymember Jose Medina, chair of the Higher Education Committee and author of AB 101, urged CCTC to create Ethnic Studies credentialing pathways for teachers, stating, “We have a law that we have passed here in the legislature that students in the State of California by the year 2029-30 will have to take an Ethnic Studies requirement. But I have heard nothing in the presentation this afternoon that the Commission on Teacher Licensing is in any way actually doing anything to prepare for that.”

<sup>15</sup> For example, at its December 9, 2022 meeting, CTCC commissioners considered a proposed regulation to allow teachers with a university degree in Ethnic Studies to teach K-12 Social Studies without passing a Social Studies content mastery test.

<sup>16</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB1255](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1255) (AB 1255)

<sup>17</sup> <https://amchainitiative.org/wp-content/uploads/2021/08/Senate-Appropriations-Analysis-of-AB-101.pdf>

<sup>18</sup> <https://esd.dof.ca.gov/LegAnalysis/getPdf/D43673DF-B9FC-EC11-913B-00505685B5D1> (Department of Finance, AB 101)

<sup>19</sup> <https://www.sacbee.com/news/politics-government/capitol-alert/article275315916.html>

<sup>20</sup> <https://lao.ca.gov/handouts/education/2023/May-Revision-K-12-Proposals-051523.pdf> (May 15, 2023) See also: <https://lao.ca.gov/Publications/Report/4646> (November 16, 2022)

<sup>21</sup> <https://www.cde.ca.gov/nr/re/hd/yr96-10tl.asp>

<sup>22</sup> Under AB 101, local educational agencies can adopt (i) the State Board of Education-approved model curriculum, (ii) an existing Ethnic Studies course, (iii) an Ethnic Studies course taught as part of a course that has been approved as meeting the A–G requirements of the University of California and the California State University, or

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(iv) a locally developed Ethnic Studies course approved by the governing board of the school district or the governing body of the charter school.

<sup>23</sup> See: <https://edsources.org/updates/state-settles-lawsuit-over-ethnic-studies-curriculum-to-remove-two-disputed-chants>; <https://edsources.org/2022/debate-turns-hot-over-uc-proposal-to-set-criteria-for-high-school-ethnic-studies/673084>; <https://www.latimes.com/california/story/2022-04-06/critical-race-theory-banned-by-an-orange-county-school-board>; <https://voiceofoc.org/2023/05/santa-ana-school-district-struggles-with-how-to-teach-palestinian-israeli-history/>; and <https://www.sfchronicle.com/california/article/ethnic-studies-graduation-racism-17829451.php>.

<sup>24</sup> In 2016, Thomas S. Dee and Emily K. Penner published “The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum” (<https://journals.sagepub.com/doi/abs/10.3102/0002831216677002>), and a follow-up study by Dee, Penner and Sade Bonilla was published in 2021 (<https://www.pnas.org/doi/10.1073/pnas.2026386118>).

<sup>25</sup> The Dee and Penner 2016 study and/or the Dee, Penner and Bonilla 2021 follow-up study or its conclusions have been cited or alluded to in the following public policy documents to justify the need for the policy’s implementation: the legislative analysis of Assembly Bill 2016 mandating the development of a state-approved Ethnic Studies Model Curriculum ([https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520160AB2016](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB2016)); the AB 2016-mandated Ethnic Studies Model Curriculum (<https://www.cde.ca.gov/ci/cr/cf/documents/ethnicstudiescurriculum.pdf>); the legislative analyses of AB 2772 ([https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180AB2772](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB2772)) and AB 331 ([https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB331](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB331)), two bills seeking to mandate an ethnic studies high school graduation requirement vetoed by the Governor in 2018 and 2020, respectively; and in the legislative analysis of AB 101 ([https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220AB101](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB101)).

<sup>26</sup> <https://www.tabletmag.com/sections/news/articles/studies-fail-to-support-claims-new-california-ethnic-studies-requirement>

<sup>27</sup> In 2021-2022, 47% of all California students met or exceeded California standards in English Language Arts and 33% in Math. Scores were significantly lower for African American students (30% and 16%, respectively), Hispanic students (36% and 21%, respectively), and American Indian and Alaska Native students (33% and 21%, respectively). California Assessment of Student Performance and Progress: <https://caaspp-elpac.ets.org/caaspp/Default>

<sup>28</sup> <https://edsources.org/2022/thousands-of-california-teachers-say-they-are-stressed-burned-out/678737>

<sup>29</sup> The first draft of the ESMC is no longer on the CDE’s website, but an archived version can be accessed here:

<http://web.archive.org/web/20190801201148/https://www.cde.ca.gov/ci/cr/cf/esmcpubcomment.asp>

<sup>30</sup> <https://jewishcaucus.legislature.ca.gov/sites/jewishcaucus.legislature.ca.gov/files/190729%20Jewish%20Caucus%20Letter%20on%20Ethnic%20Studies%20Model%20Curriculum.pdf>

<sup>31</sup> <https://jweekly.com/2019/08/23/in-face-to-face-with-gov-newsom-strong-support-for-jewish-concerns/>

<sup>32</sup> <https://www.cde.ca.gov/be/pn/nr/yr19sberel01.asp>

<sup>33</sup> <https://jewishcaucus.legislature.ca.gov/sites/jewishcaucus.legislature.ca.gov/files/190729%20Jewish%20Caucus%20Letter%20on%20Ethnic%20Studies%20Model%20Curriculum.pdf>

<sup>34</sup> Miguel Zavala, Nick Henning, and Tricia Gallagher-Geurtsen, “Ethnic Studies: 10 Common Misconceptions,” in *Rethinking Ethnic Studies*, eds. R. Tolteka Cuauhtin, Miguel Zavala, Christine Sleeter, Wayne Au (Milwaukee: Rethinking Schools, 2019), pages 17 – 19.

<sup>35</sup> For example, the Liberated Ethnic Studies Model Curriculum Consortium (<https://www.liberatedethnicstudies.org/>) and Community Response Education (<https://communityresponsive.org/>).

<sup>36</sup> <https://edsources.org/2022/california-schools-should-opt-for-inclusive-ethnic-studies/674538>

<sup>37</sup> See footnote 23.

<sup>38</sup> <https://santacruz.k12oms.org/929-207414> and <https://www.rcoe.us/home/showpublisheddocument/3917>

<sup>39</sup> <https://www.rcoe.us/home/showpublisheddocument/3917>

<sup>40</sup> See e.g. Association of CA School Administrators (October 2021 through March 2023), CA Association of African American Superintendents & Administrators (May 2021 and March-April 2022) and the CA Latino School Boards Association (December 2021 and November 2022).

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<sup>41</sup> <https://twitter.com/MoranTeacher/status/1629422708680425473>

<sup>42</sup> AB 101 states that the curriculum, instruction, and instructional materials for the required ethnic studies course must not “reflect or promote, directly or indirectly, any bias, bigotry, or discrimination,” and that “it is the intent of the Legislature that local educational agencies not use the portions of the draft model curriculum that were not adopted by the Instructional Quality Commission due to concerns related to bias, bigotry, and discrimination.”

<sup>43</sup> The survey of 1,200 middle and high school students found that 63% reported having had an emotional breakdown during the prior year, 43% reported anxiety attacks, 22% had missed school due to mental health, and 19% reported suicidal thoughts. (<https://edsources.org/2022/anxiety-stress-remain-top-concerns-for-california-students-survey-finds/666596>)

<sup>44</sup> [https://ies.ed.gov/schoolsurvey/spp/SPP\\_April\\_Infographic\\_Mental\\_Health\\_and\\_Well\\_Being.pdf](https://ies.ed.gov/schoolsurvey/spp/SPP_April_Infographic_Mental_Health_and_Well_Being.pdf)

<sup>45</sup> <https://www.gov.ca.gov/2022/08/18/governor-newsom-unveils-new-plan-to-transform-kids-mental-health/>  
(August 18, 2022)