



August 26, 2012

The Honorable Alan Lowenthal
Chair, Senate Education Committee
State Capitol, Room 2083
Sacramento, CA 95814

RE: AB 5 (Fuentes) as amended August 24, 2012 – OPPOSE

Dear Chairman Lowenthal:

On behalf of the EdVoice Board, I write to express continued strong opposition to AB 5 (Fuentes). Despite the recent amendments, the bill would take California backward on teacher and principal evaluation, and basic school accountability.

Commitments made in the June 2011 Senate Education Committee hearing on AB 5 as conditional to the bill being heard on the Senate Floor have clearly not been met. At the very time voters will soon be asked to invest *more* in public education, key stakeholder concerns have not been addressed. Instead, the Legislature is being asked to *permanently repeal the only provision in California law requiring school districts to adopt grade level academic standards*, and impose a massive new unfunded state mandate on local school districts while stripping them of authority to objectively assess the job performance of employees paid by state and local taxes. Our concerns also include, but are not limited to, the following:

“Grade level” proficiency is repealed by AB 5. Assessing student growth toward “grade level” expectations in evaluations of teachers and principals is nowhere to be found in AB 5. Student progress toward “grade level” expectations currently exists in California law, but AB 5 repeals the language *permanently*. Because of the bill’s drafting design, with the outright repeal of the pre-1975 provisions of the Stull Act (mandated but not subject to conditional operation by annual appropriations in the annual Budget Act), there would no longer be a default provision in California law requiring job performance evaluations of teachers and principals to include the assessment of the progress of pupils toward expected grade level achievement.

AB 5 imposes the largest ongoing unfunded state mandate on local schools since the adoption of Proposition 4 by the voters in 1979. Beginning immediately, AB 5 establishes a massive unfunded mandate on 80 percent of California schools for start-up implementation. AB 5 does not identify an ongoing new funding source, and reneges on promised funding to schools meeting targets in the QEIA program. By simply repurposing one-time money for only 20 percent of California’s schools, and then only for a portion of the start-up costs for the proposed new system, AB 5 ignores entirely an ongoing unfunded price tag of over \$100 million annually. Under any calculation, AB 5 is not fully funded, period.

AB 5 calls into question the force of law of *any* state education mandate. AB 5 *does not* fund startup costs of 80 percent of California's schools. And, including the enormous ongoing costs of AB 5 in the new state reimbursement block grant with no new or augmented funding source, calls into question the commitment for fully funding the massive new mandate on an ongoing basis, introducing the consequences of the 2011 California Court of Appeal (*CSBA v. State of CA*) finding the *State's practice of nominally funding mandated programs to be unconstitutional*: The legal force of all state education mandates, including several existing health and safety related school mandates, would be in jeopardy under the inadequate funding scheme proposed by AB 5.

AB 5 weakens parent empowerment. By specifying a once-a-year opportunity for public comment on the proposed evaluation system, AB 5 establishes a redundant and hollow provision for parent and community involvement. Current law allows parents and community members to provide input at *any* regularly scheduled public meeting of their local school board. In designating the month of May for input, it could actually squelch opportunities for parents to engage their local board on employee job performance during *any* regular meeting's public comment period. ***AB 5 provides no assurance that parent or community feedback on actual effectiveness will ever be tabulated or included in any individual employee's performance evaluation.***

AB 5 prevents any meaningful gauge of student growth in evaluations. The ambiguous language of formative v. summative v. state v. local student growth, and authority for "non-regulatory" guidance invites never-ending allegation of unfair labor practices. "Summative" is a term that can be applicable to progress in a curriculum strand, unit, subset of course content, or any point in time, not necessarily beginning-to-end-of-school-year progress; standing alone after the repeal of existing law, nothing requires "summative" to pertain to student progress toward "grade level" expectations. The drafting design of AB 5 invites disputes over allowable evidence of student learning resulting in omission of already available objective measures of student progress relevant to teacher effectiveness. ***And, AB 5 doesn't require student growth to be a "significant" component of evaluations as required for statewide criteria to satisfy federal eligibility for waivers and grant programs.***

AB 5 strips local school boards of control over accountability. Establishing expectations for grade level student achievement and linking it to effectiveness of staff is a key feature of accountability. And, assessing whether or not students are learning appropriately toward expectations requires the establishment of grade level standards. By repealing a mandatory link between "grade level" expectations for students linked to adult effectiveness, and mandating all aspects of evaluations be collectively bargained, AB 5 profoundly limits the ability of local governing boards to act on objective data to hold employees accountable on behalf of parents, constituents and taxpayers. Furthermore, AB 5 fosters moral hazard by granting authority to the evaluated employees, ***even those with only probationary status***, to veto the linking of job expectations of the employing authority to expectations for "grade level" student learning. Such controversy could easily spill into course passage thresholds, course sequencing, content sequencing within a grade level, and even pedagogical technique.

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AB 5 precludes best personnel management practices. The bill requires evaluators to give employees a “heads-up” conference prior to every classroom observation that counts toward the formal assessment of an employee’s job performance. In doing so, it prohibits the opportunity to gather authentic contemporaneous evidence of employee effectiveness in teaching from unannounced classroom visits. This prohibition would insert a bias into a likely significant component of the performance evaluation. Any provision that introduces an artificial bias will limit the ability of the evaluator, or the board and superintendent as the employing authority, to determine effectiveness, identify truly struggling staff, make meaningful specific recommendations necessary to ensure staff better serve students, or respond appropriately during a probationary period or adverse action. And, *because the bill would prohibit the State Board of Education from waving the new provisions, the opportunity to collect objective measures of effectiveness from any un-auditioned observation data as part of the formal assessment of employee effectiveness would require new legislation.*

California has a long tradition of honoring local control in education policy. Current law explicitly vests governing boards of local school districts with the responsibility to set standards for grade level expectations for all students. The process of setting grade level educational goals for children’s learning is weighty and the decisions made by school boards have lifelong consequences for children, the local community and State of California. Goals for children’s academic success and their future should not be allowed to be bargained away by adult competition over money, particularly during times of economic downturn, failed commitments to Constitutional funding guarantees, or failure to provide full reimbursement for new state mandates.

AB 5 puts adult wages and full employment in direct competition with expectations for grade level student achievement. AB 5 is incomplete; it is not funded, it is not good for children, it is not good for teachers or principals, it is not good for school boards, it is not good for parents or community stakeholders, and it is not good for important state mandated education programs currently funded and operative.

EdVoice still strongly opposes AB 5 and we respectfully request that you hold it in committee.

Very Respectfully,



Bill Lucia
President and CEO

cc: Hon. Felipe Fuentes, Assembly Member 39th District
Members of the Senate and Assembly