

Education Code 49067 authorizes school boards to “prescribe regulations regarding the evaluation of each pupil's achievement,” i.e. to adopt grading policies. Such policies are not a mandatory subject of bargaining under the Educational Employment Relations Act (EERA) (Gov. Code § 3540 et seq.). Unions only have the right to consult. You have bargained language that mirrors the Education Code in your contract.

In summary, the Board of Education is required to develop policies to evaluate student achievement. Within those policies teachers have the authority to determine the students’ grades. Additionally, a teacher cannot be required to change a student’s grade nor can an administrator change a student’s grade that a teacher has given.

49067. (a) The governing board of each school district shall 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. The refusal of the parent to attend the conference, or to respond to the written report, shall not preclude failing the pupil at the end of the grading period.

(b) The governing board of any school district may adopt regulations authorizing a teacher to assign a failing grade to any pupil whose absences from the teacher's class that are not excused pursuant to Section 48205 equal or exceed a maximum number which shall be specified by the board. Regulations adopted pursuant to this subdivision shall include, but not be limited to, the following:

(1) A reasonable opportunity for the pupil or the pupil's parent or guardian to explain the absences.

(2) A method for identification in the pupil's record of the failing grades assigned to the pupil on the basis of excessive unexcused absences.

(c) Notwithstanding the provisions of subdivision (a) of Section 49061, the provisions of this section shall apply to the parent or guardian of any pupil without regard to the age of the pupil.