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June 17, 2020

Via E-Mail: dfisher@saccityta.com

David Fisher
President
Sacramento City Teachers Association
5300 Elvas Avenue
Sacramento, CA 95819

Re: COVID-19 Grading Policies

Dear Mr. Fisher:

This letter is to address the questions that have been raised by District employees and SCTA First Vice President, Nikki Milevsky, regarding compliance with the District's alternative grading policies adopted in light of the transition to distance learning due to the COVID-19 pandemic ("alternative COVID-19 grading policies"). As you know, we are in the midst of a global pandemic and our students are facing unprecedented challenges moving from in-class instruction to distance learning for the last part of the 2019-2020 school year. In order to address these unprecedented challenges, in accordance with its broad authority to set policy related to student's grades and based on CDE guidance as explained below, the District implemented an alternative COVID-19 grading policy. That policy holds students harmless for their fourth quarter grades by ensuring that students do not receive a grade lower than their third quarter grade. The alternative grading policy also includes an adjusted grading scale.

The District implemented the alternative COVID-19 grading policies because we believe that they are in the best interests of the students, particularly in light of the impact that the global pandemic has had on our students. It is well within the District's authority to direct teachers to assign grades based on the adopted alternative grading policies.

It is important to note that the hold harmless provision, which is the foundation of the District's alternative COVID-19 grading policies, was proposed by SCTA in April 2020 during negotiations on the effects of distance learning. This was an area on which the District and SCTA had general consensus in terms of our proposals. SCTA's proposal did not include any proposed carve out for teacher discretion in assigning grades within the hold harmless concept. Therefore, it is unclear why the hold harmless provision is now being challenged by SCTA.

Further, the District has clearly communicated the alternative COVID-19 grading policies to SCTA in previous letters and emails. The policies and expectations were also previously communicated to District employees on May 13, 2020.

School districts have broad constitutional and statutory authority and discretion over the establishment of educational programs and courses and how it carries out the same,

including grading criteria. (Cal. Const., art. IX, § 14; Ed. Code, §§ 14000, 35160, 35160.1, 49067.) Specific to a school district's grading structure, Education Code section 49067 grants the District the authority to set policy relative to student grades. The District's alternative COVID-19 grading policy is aligned with the California Department of Education's ("CDE") guidance issued on April 1, 2020 that addresses school district use of distance learning in general, grading of distance learning assignments, and potential implications from distance learning on graduation requirements issued. A key theme CDE's Guidance was that, in whatever grading criteria a school district uses to evaluate distance learning student during this time, students must be *held harmless for their spring grades*. This means that grades earned during school closures caused by COVID-19 may not negatively affect: (a) students' GPAs; (b) students' ability to promote; or (c) students' placement in advanced courses.

The District is aware of and appreciates the discretion afforded to teachers in the assignment of grades to students pursuant to Education Code section 49066, however, such discretion does not give District's teachers the authority to prescribe their own grading framework. As explained above, the District has the ultimate authority to prescribe the parameters within which teachers may exercise their discretion to assign grades. Section 49066 ensures that a teacher's grade cannot be changed "in the absence of clerical or mechanical mistake, fraud, bad faith, or incompetency," and only after the teacher has provided an explanation regarding why such grade was assigned. (Ed. Code, § 49066, subs. (a) and (b).)

Based on the above, the District maintains that it has the authority to set policies relative to student grades and teachers must assign grades within the parameters of such policies. Accordingly, District staff who have assigned grades that are not consistent with the District's alternative COVID-19 grading policy must do so by 11:59 p.m. tonight, June 17, 2020. Failure to comply with the District's grading policy will result in an automatic change to the student's grades to reflect the District's alternative COVID-19 grading policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jorge A. Aguilar', with a large loop and a dot at the end.

Jorge A. Aguilar
Superintendent